

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

March 22, 2001

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, March 22, 2001 at 1:00 p.m., in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Jerry Michaelis, Acting Chair; James Barfield (late arrival); Dorman Blake; Kerry Coulter; Frank Garofalo; Bud Hentzen; Bill Johnson (late arrival); Richard Lopez, Ron Marnell (late arrival); John W. McKay, Jr.; Susan Osborne-Howes (late arrival); George Platt; Harold Warner and Ray Warren. Staff members present were Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner, Scott Knebel, Senior Planner; Bill Longnecker, Senior Planner, and Karen Wolf, Recording Secretary.

1. Approval of meeting minutes for February 8, 2001

WARREN "I have a minor change. I will give it to the secretary."

MICHAELIS "Okay. If there are no others, I will entertain a motion to approve."

MOTION: That the Metropolitan Area Planning Commission approves the minutes of February 8, 2001 as amended.

MCKAY moved, **WARNER** seconded the motion and it carried unanimously (8-0).

2. Consideration of Subdivision Committee recommendations

MICHAELIS "Is there anything we need to pull out for consideration?"

MILLER "Item No. 2/3 needs a little bit of explanation."

MICHAELIS "Is that the only one? Okay. Is there anyone here wishing to speak on any of these subdivision items? Then we can take items 2/1, 2/2 and 2/4 through 2/11 in one motion."

Subdivision Committee items 2/1, 2/2, 2/4, 2/5, 2/6, 2/7, 2/8, 2/9, and 2/10 and 2/11 were approved subject to the Subdivision recommendations

MCKAY moved, **WARNER** seconded the motion, and it carried unanimously (8-0).

2/1. SUB2000-117 – Final Plat of WICHITA BOEING EMPLOYEES ASSOCIATION ADDITION, located south of MacArthur, west of Broadway.

- A. Municipal services are available to serve the site. City Engineering needs to comment on the need for any guarantees or easements. A petition is required for the turnarounds at the terminus of Gold Street, Waco and Wichita.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- D. City Engineering needs to comment on the proposed vacation of the contingent maintenance access easement along the Riverside Drainage Ditch. The applicant shall retain the easement on the plat.
- E. The primary access is through Gold Street. An emergency access is located at the south end of Wichita Street, and complete access control has been dedicated along Wichita and Waco. The final plat shall reference the access controls in the plat's text as being dedicated to the appropriate governing body.
- F. Mann Street, located adjacent to the north line of the plat, is not open and should be vacated. The applicant shall contact the property owners to the north to attempt to have this half-street right-of-way vacated. A portion of this street right-of-way will need to be retained as a hammerhead turnaround for Wichita Street.

- G. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP (referenced as DP-110) and its special conditions for development on this property.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The legal description needs to be revised by deleting "of the S ½ of the SW corner".
- K. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

2/2. **SUB2001-09** – Final Plat of RITCHIE OFFICE PARK ADDITION, located south of 29th Street North, east of Ridge Road.

- A. The applicant shall guarantee the extension of sanitary sewer and City water.
- B. City Engineering needs to comment on the need for any additional guarantees or easements. No additional guarantees or easements are needed.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. The drainage improvements may be included as part of the paving guarantee. The Kansas Division of Water Resources needs to comment on the stormwater drainage directed toward the lake. No comments were received.
- E. County Engineering advises the applicant to ensure that the plat does not include property within the 100-year floodplain.
- F. The applicant shall guarantee the paving of the proposed interior streets to the industrial street standard.
- G. The 64-ft cul-de-sac width needs to be increased to 70 feet to conform with the Subdivision Regulations for industrial subdivisions. A modification has been approved by the Subdivision Committee subject to the submittal of a restrictive covenant limiting the lots adjoining the 64-ft cul-de-sac to office uses.
- H. The turnaround for the cul-de-sac needs to be increased to 130-ft right-of-way to conform with Subdivision Regulations. A modification has been approved by the Subdivision Committee subject to the submittal of a restrictive covenant limiting the lots adjoining the 64-ft cul-de-sac to office uses.
- I. City Fire Department needs to comment on the street names. The through street needs to be named Ritchie Circle. The cul-de-sac should be named Ritchie Court.
- J. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- K. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- L. On the final plat, the MAPC signature block needs to reference "J.D. Michaelis, Acting Chair".
- M. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised.

More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.

- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the

applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- S. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements. A temporary easement will need to be established by separate instrument for any facilities in need of relocation.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

2/4. SUB2001-28 – One-Step Final Plat of FLAT CREEK ADDITION, located on the east side of 119th Street West, north side of Pawnee.

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-6, Single-Family Residential and allow for the lot sizes being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. County/City Engineering needs to comment on the status of the applicant's drainage plan. County/City Engineering have approved the drainage plan. City Engineering has required a drainage guarantee.
- E. County Engineering needs to comment on the need for improvements to perimeter streets. No improvements are required.
- F. The plat proposes complete access control along the plat's frontage to Pawnee and 119th St. West. The final plat shall reference the access controls in the plat's text.
- G. The applicant shall guarantee the installation of the proposed streets. The guarantee shall also provide for sidewalks on one side of the through street and loop streets (64-ft right-of-way).
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. It appears that the width of the through street and loop streets are measured as 64 feet although incorrectly labeled as 70 feet.
- K. Lots 7, 8 and 11, Block F, exceed the maximum lot width to lot depth ratio of 2.5 to 1. A modification has been approved by the Subdivision Committee.
- L. The County/City Fire Department needs to comment on the plat's street names. Revised street names are required.
- M. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block

number and shall state that the covenant runs with the land and is binding on future owners and assigns.

- N. The applicant needs to verify the location of the pipeline easement indicated in the platting binder. If this easement is on this site, it should either be shown or verification provided that it is off-site or has been released.
- O. The owners noted in the platting binder need to be signatories to the plat, or a revision to the binder showing that the site's ownership is only in the party now shown on the final plat.
- P. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- X. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements.
- Y. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

- 2/5. **SUB2001-23** – One-Step Final plat of REGAL MOTORS ADDITION, located on the east side of Broadway, north of 31st Street South.
- A. Municipal services are available to serve the site. City Engineering needs to comment on the need for any guarantees or easements. No guarantees or easements are required.
 - B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
 - C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
 - D. The plat proposes two access openings along Broadway. Traffic Engineering needs to comment on the access controls. Traffic Engineering has approved one opening.
 - E. The centerline of Broadway needs to be denoted on the final plat tracing.
 - F. The right-of-way width from the centerline of Broadway needs to be denoted on the final plat tracing. The Subdivision Regulations require a 50-ft half-street right-of-way for plats along arterials.

- G. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
 - H. The signature line for the County Clerk needs to be revised to reference "Don Brace".
 - I. The signature line for the MAPC Chairman needs to be revised to reference "Jerry Michaelis, Acting Chair".
 - J. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
 - K. The current ownership of the railroad needs to be included on the plat.
 - L. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
 - M. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
 - N. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
 - O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
 - P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
 - Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
 - R. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
 - S. Perimeter closure computations shall be submitted with the final plat tracing.
 - T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
 - U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
 - V. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.
-

2/6. SUB2001-24 – One-step final plat of JESSEE THIRD ADDITION, located west of Broadway, south side of 33rd street north.

- A. Municipal services are available to serve the site. City Engineering needs to comment on the private sewer easement proposed on Lot 2 for the benefit of Lot 1. The private sewer easement is acceptable.
- B. The private sewer easement needs to be established by separate instrument.
- C. City Engineering needs to comment on the need for any guarantees or additional easements. No guarantees or

additional easements are required.

- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- E. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- F. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- G. Lot 3 exceeds the maximum lot width to lot depth ratio of 2.5 to 1. A modification has been approved by the Subdivision Committee.
- H. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- I. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

2/7. SUB2001-27 — One-Step Final Plat of HAL LOEHR ADDITION, located west of 295th Street West, north side of Pawnee.

- A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval. The applicant shall be relocating the lagoon to 50 feet from the east property

line. Health Department requires the approval of two waivers to permit the lagoon to be located closer than the required 100 feet from property lines.

- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. County Engineering needs to comment on the status of the applicant's drainage plan, and on the accuracy of the boundaries of the floodway reserve. The Master Drainage Plan needs to be reviewed.
- D. The platlor's text shall note the creation of the Floodway Reserve in addition to including the standard floodway language.
- E. The lot exceeds the maximum lot width to lot depth ratio of 2.5 to 1. A modification has been approved by the Subdivision Committee.
- F. County Fire Department has required a 20-ft driveway to the shed and a turnaround to conform with Fire Department's requirements.
- G. The applicant is advised that if platted, the building setbacks must be 35 feet to conform with the Zoning setback standard for County section line roads.
- H. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- I. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

2/8. **SUB2001-29** – One-Step Final Plat of W.H.H. Addition, located on the south side of 27th Street South, west of Seneca.

- A. City Water services are available to serve the site. The applicant shall guarantee an extension of sanitary sewer. City Engineering needs to comment on the need for additional guarantees or easements. No additional guarantees or easements are required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- D. Traffic Engineering needs to comment on the need for improvements to perimeter streets. No improvements are required.
- E. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- F. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- G. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- O. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- P. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

2/9. DED2001-05 – Dedication of a Utility Easement, located south of 13th Street, east of Hoover.

OWNER/APPLICANT: Charles W. Hinkle, 1402 W. 35th Street North, Wichita, KS 67204

LEGAL DESCRIPTION: The east 20 feet of the west 150 feet of the south half of Lot 19, except the south 30 feet, R.A. Morris Tracts, Sedgwick County Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2001-15, and is being dedicated for the construction and maintenance of public utilities.

Planning Staff recommends that the Dedication be accepted.

2/10. DED2001-06 – Contingent dedication of street right-of-way, located south of 13th Street, east of Hoover.

OWNER/APPLICANT: Charles W. Hinkle, 1402 W. 35th Street North, Wichita, KS 67204.

LEGAL DESCRIPTION: The east 30 feet of south half of Lot 19, except the east 330 feet, the west 207.5 feet and the south 30 feet for street, of R. A. Morris Tracts, Sedgwick County Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2001-15, and is being dedicated for future street along the east line of the plat.

Planning Staff recommends that the Dedication be accepted.

2/11. DED2001-07 – Dedication of a utility easement, located west of Seneca and south of MacArthur Road.

OWNER/APPLICANT: Nelson and Nelson, Inc., C/O Chris Nelson, 12220 Jayson Lane, Wichita, KS 67235

LEGAL DESCRIPTION: The south 2 feet of the north 10 feet and the east 2 feet of the west 10 feet of Lot 3, Block A, Vilm Gardens Second Addition, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2001-14, and is being dedicated to conform with the standard utility easement width.

Planning Staff recommends that the Dedication be accepted.

Bill Johnson arrived at the meeting at 1:06 p.m.
Richard Lopez arrived at the meeting at 1:07 p.m.
Kerry Coulter arrived at the meeting at 1:08 p.m.

2/3. SUB2001-26- One-Step Final Plat of COPART ADDITION, located north of 47th Street South, east of Kansas Turnpike.

- A. Sanitary sewer services are available to serve the site. The applicant shall guarantee the extension of City water. City Engineering needs to comment on the need for guarantees or easements. A guarantee for the extension of sanitary sewer is required.
- B. The applicant shall dedicate an additional 10 feet along with both sides of the existing sewer easement. Also, a Restrictive covenant shall be submitted addressing construction of the drive crossings over the easement.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. A 60-ft drainage easement is required along the north line of the plat.
- E. County Engineering requests that the plat reflect the established bank lines of Arkansas River.
- F. On the final plat, Reserves should be denoted to cover billboards and referenced in the plat's text.
- G. City Fire Department needs to comment on the need for the installation of a turnaround at the terminus of Madison. A hammerhead turnaround is required. The applicant shall submit a petition for future paving.

- H. Access controls dedicated along the Kansas Turnpike need to be denoted on the face of the plat.
- I. The southernmost structure situated within the required 20-ft zoning setback shall not be enlarged to increase its nonconformity and if removed cannot be replaced within the required setback.
- J. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- K. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

NEIL STRAHL, Planning staff "This is located north of 47th Street South, east of the Kansas Turnpike. This site was approved last year as a Conditional use for a wrecking and salvage yard. Last week, the Subdivision Committee approved the plat; however, subsequent to last week's meeting, the Water and Sewer Department met with the applicant and agreed upon the submission of a restrictive covenant. This covenant will address an existing sewer line that is located on the western portion of the plat. The covenant will entail increasing the existing sewer easement by 20 feet, 10 feet on each side of the existing easement. Other requirements will involve construction of drive crossings along the easement along with participation of the water and sewer department in that construction.

The applicant's agent, Phil Meyer, is in attendance today, and he can elaborate on the requirements. Are there any questions for staff?"

PLATT "Is parking going to be allowed on the easement? Did they agree on that?"

STRAHL "I don't know. I will defer to the applicant on that."

MICHAELIS "Are there any further questions of staff? Thank you, Mr. Strahl. Could we hear from the applicant?"

PHIL MEYER "I am with the Baughman Company, agent for the applicant. We did meet with the Sewer and Water Department subsequent to the Subdivision vote. We have reached a compromise. We were at one end to the other at Subdivision where they wanted no parking on the easement—they wanted it wider. We met with them and worked out a compromise to where we will increase the width to 50 feet. We are allowed to park on the easement. We will construct 30 x 30 foot concrete pads over the easement at designated locations. The first phase that is out there today will require 3 crossings. The second phase will probably require 3. They will be built in the same manner.

Both parties, the applicant and the Sewer and Water Department are in agreement with this. Our office will draw up a mutual agreement between the two to sign to go with the final plat. I will go into more detail if you would like for me to."

WARREN "As I recall, the Subdivision modified that motion so that we were going to require 30 foot, but it had to be open as a surface road. Now, you are saying that 30 foot won't apply, but 50 foot is going to apply and you don't have to keep it open."

MEYER "We don't have to keep it open and we are allowed to park on it, which is one of the things we wanted to do."

WARREN "And you are agreeable to that?"

MEYER "Both sides are agreeable."

MICHAELIS "Any further questions of the applicant? Thank you, Mr. Meyer. Is there anyone else in the audience wishing to speak on this item? Either for or against. Seeing none, we will bring it back to the Commission."

MOTION: That the Planning Commission recommend to the governing body that the request be approved, subject to the conditions worked out in the covenant between the applicant and the Water and Sewer Department.

PLATT moved, **LOPEZ** seconded the motion, and it carried unanimously (11-0).

JERRY MICHAELIS, Acting Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning and vacation items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

Marnell arrived at the meeting at 1:10 p.m.

Osborne-Howes arrived at the meeting at 1:11 p.m.

3/1. VAC2001-00007 – Charles W. Hinkle requests to vacate a 20-foot utility easement, described as:

The east 20 feet of the west 160 feet of the south half of Lot 19, R.A. Morris Tracts, Sedgwick County, Kansas. Generally located on the northeast corner of Curtis and 11th Street.

LOCATION: Generally located on the Northeast corner of Curtis and 11th.

REASON FOR REQUEST: For future development of this site.

CURRENT ZONING: Subject property is zoned SF-6 Single Family Residential. Properties to the north, west, south and east are zoned SF-6 Single Family Residential.

The applicant is requesting to vacate a 20-ft Utility Easement and proposes providing a substitute 20-ft utility easement. The substitute 20-ft easement would be partially located approximately 10-ft. east of the existing easement; with remaining 10-ft located within the east half of the existing easement. There is an 8-inch sanitary sewer line located in this 20-ft easement. The applicant proposes to do a Lot Split contingent on the consideration and recommendation of the vacation request. The applicant proposes to build homes on the parcels created by the Lot Splits.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 2, 2001, which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the above-described access control, and the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of access control described in the petition should be approved subject to the following conditions.
 - 1. City Public Works requires the applicant to verify the location of the sewer line in the existing easement. If it is as shown on the plat, Public Works does not oppose the vacation request.
 - 2. Utility Representatives has no objection to the vacation request.
 - 3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - 4. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- 1. The applicant shall verify the location of the sewer line in the existing easement. If it is as shown on the plat, Public Works does not oppose the vacation request and the substitute easement.
- 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- 3. All improvements shall be according to City Standards.

BILL LONGNECKER, Planning staff "This is a request to vacate a 20-foot utility easement. The reason for the request is for future development of the site. Currently the utility easement is shown on this line (indicating), and this solid line here. That is a 20-foot utility easement. The applicant is proposing to do a lot-split contingent on consideration and recommendation of vacation request. He is proposing to put a substitute easement, sliding it basically 10 foot over to the west. So the new easement would be located here (indicating) and here.

The Subdivision Committee heard this and recommended approval of this vacation request contingent upon the applicant verifying the location of the sewer line, and the existing easement. There is an 8-inch sewer line. If it is shown on the plat, Public Works is not opposed to the vacation request and the substitute easement."

MICHAELIS "Are there any questions of staff? Thank you, Mr. Longnecker. May we hear from the applicant, please?"

ROBERT PRIVIERA "I am with Reiss and Goodness Engineers. We are in approval of all of the staff comments. I have given proof by a survey location of the actual sewer line to the Planning Department. That should be enough to get them on their way."

MICHAELIS "Are there any questions of the applicant? Thank you, sir. Is there anyone else in the audience wishing to speak either in favor or in opposition to Item No. 3/1? Seeing none, I will bring it back to the Commission."

MOTION: Approve the item, subject to staff comments.

HENTZEN moved, **LOPEZ** seconded the motion, and it carried unanimously (13-0).

3/2. VAC2001-00008 – Ascension Lutheran Church requests to vacate a 10-foot utility easement, located on the southeast corner of Bekemyer and Tyler, described as:

The East ten (10) feet of the West 394 feet of the South 172 feet of a tract described as follows: The North 450 feet of the West 484 feet of the South half of the Southwest Quarter (S/2 SW/4) of Section 16, Township 27 South, Range 1 West of the 6th PM., Sedgwick County, Kansas.

REASON FOR REQUEST: The Church plans to build an educational wing addition over the easement area.

CURRENT ZONING: Subject property is zoned SF-6 Single Family Residential. Properties to the north and west are zoned SF-6 Single Family Residential and GO General Office. Property to the south is zoned LC Limited Commercial and property to the east is zoned SF-6 Single Family Residential.

The applicant is requesting vacation of a 10-ft KG&E Easement. The applicant proposes to build an educational wing onto the existing Ascension Lutheran Church, which will encroach on the KG&E easement. The applicant has a witnessed Partial Release of Right of Way agreement with KG&E (10-20-01) in reference to the KG&E utility. The KG&E easement is recorded on the Ascension Lutheran Church Addition Plat (June, 1997) and therefore the applicant must vacate the easement as well as obtain the Partial Release of Right of Way.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 2, 2001, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described access control, and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

- B. Therefore, the vacation of a portion of access control described in the petition should be approved subject to the following conditions.
1. City Public Works has no objection to the vacation request.
 2. Utility Representatives have no objection to the vacation request
 3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 4. All improvements shall be done according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
2. All improvements shall be done according to City Standards.

BILL LONGNECKER, Planning staff "This is a request to vacate a 10-foot utility easement. This is a private easement; a KG&E easement that are recorded on the Ascension Lutheran plat. Because it is recorded on the Ascension plat, even though it is a private, 10-foot KG&E utility easement, we need to go through the vacation process to get it noted that it will be removed from the plat.

The Subdivision Committee heard this case and recommended approval of the vacation request with the language 'any relocation, reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant; and All improvements shall be done according to City Standards. Are there any questions?"

MICHAELIS "Are there any questions? Thank you, Mr. Longnecker. May we hear from the applicant?"

BRAD TEETER "I am with Spangenberg Phillips Architecture, agent for the applicant. We have no objections to the staff report's recommendations. I am happy to answer any questions you might have."

MICHAELIS "Are there any questions of the applicant? Thank you, sir. Is there anyone in the audience wishing to speak on this item, in favor or against? Seeing none, we will bring it back to the Commission."

MOTION: That the item be approved, subject to staff comments.

GAROFALO moved, **WARNER** seconded the motion, and it carried unanimously (13-0).

4. DROO-10 – Adoption of Midtown North Neighborhood Revitalization Plan.

DAVE BARBER, Planning staff, concluded his presentation of the public hearing that commenced on March 8, 2001.

BARBER "Mr. Chair, do you want me to recap my presentation from the prior meeting, or do you just want me to conclude from the point where we left off?"

MICHAELIS "I would think that we could probably just conclude and maybe summarize a little bit. Then if we have any specific questions, we can ask them."

BARBER "I just want to remind the Planning Commission that we have been working on this plan for over a year and a half and there have been some special challenges along the way. I think we are now at a point where we do have a fairly good plan that has the general support of residents and business people in the plan area. It is by no means a perfect plan, nor is there unanimous support for everything in it. But I think it does set a good foundation for future revitalization efforts in the Mid-Town North area.

You may recall that we reviewed the 21st Street Improvement elements of the plan with you at the last meeting; some street widening between Park Place and Broadway; 8-foot wide sidewalks along both sides of 21st Street, some street scaping and landscaping and tree planting along both sides. To do that, of course, necessitated the

additional right-of-way; maintaining 4 lanes of through traffic, adding turning lanes, reconfiguring Market and 21st Streets on the north side of 21st. I think we are pretty much to where we left off last time.

You may recall that there are a total of 8 plan goals; 5 of those goals are geared more to community capacity building and neighborhood programming issues. Three of the goals actually relate to physical improvements in the plan area. One of the goals had to do with encouraging additional economic development in this particular area. Increasing retail commercial activity. We talked about the International Marketplace concept. There was no agreement on this and this is something that I think will have to be left for discussion on another day. We encouraged the establishment of a local business association. I think that pretty much brings us up to where we left off.

The 6th goal is to initiate better marketing promotion of the community recreation programs available at the Evergreen Center, especially through local churches, schools and businesses. Although the Evergreen Center itself is not physically located in the plan area, it is an integral part of this community and people in the plan area do use this facility and it is an important part of their 'neighborhood and community'.

The other goal was to preserve and strengthen local churches there, seen as an integral element of the neighborhood fabric. The last goal was to preserve historic buildings. There are not a lot of them in the plan area, but one of them is the Normar Theater. I think the plan encourages incorporating at least the architectural aspects of the building and the façade elements of it in any future redevelopment initiatives in the Market and 21st Street area.

I think this brings us up to where we left off. There are some neighborhood zoning adjustments that are being proposed in the plan. The plan identified a need to create a better zoning fit with the low-density residential character of the neighborhood. If we look at the existing zoning map, you can see that the darker colored areas are largely high-density residential development areas. Seventy-five dwelling units per acre in the area in brown here (indicating). We go into the green area through here and I think it is down to about 29 DUs per acre. When you look at the actual land-use pattern, you can see that most of the neighborhood is either single-family or duplex, so there is not a good fit between zoning and existing and proposed future land-use opportunities in the area. This is something that I think will have to be followed up in the implementation stage.

In terms of the implementation priorities, of course the aspects of the plan that relate to community programming and capacity building don't have any reliance up local government capital investment monies. However, the physical improvements that we reviewed with you last time, particularly the 21st Street improvements do have C.I.P. implications for the City of Wichita, and the total improvement costs are estimated at \$3.9 million for the things that we described to you pertaining to the 21st Street improvements. The city has allocated funds in its 10-year C.I.P. They are actually scheduled, at this point in time, for the year 2006. I believe that there is a hope to accelerate that and move it up so that the neighborhood does not have to wait another 5 to 6 years to see some improvements on 21st Street.

As I mentioned to you before, there is some interest in the Mercado concept, but no consensus. I think this will be left for further study and debate. As I also mentioned earlier, there are some properties that will need some zoning adjustments and this will require full community support and initiative to make something like that happen. We have just conceptually identified an issue that will now be up to the neighborhood to move that issue forward with more specifics.

Develop restoration plans for the Normar Theater. I think it is still yet to be determined what the reuse capabilities of that facility are."

Barfield arrived at 1:20 p.m.

GAROFALO "Dave, on the 21st Street Improvements, is it in the C.I.P. for that year to begin or to be completed?"

BARBER "That is the commencement."

GAROFALO "For 2006."

BARBER "Yes, the construction commencement. I think some design work might be done earlier, but I believe that that is the current commencement date for improvements. And I know that the Council member for that area has hopes of moving that up perhaps in 2003, rather than 2006. That pretty much brings us to the conclusion of the plan. We are at a state now where we need the Planning Commission's support. The recommendation, of course, is to adopt the Mid-Town North Neighborhood Revitalization Plan as an element of the Comprehensive Plan. I believe there is a list of members who were on the 21st Street Task Force that was put together about a year ago to resolve some of these outstanding issues pertaining to the actual configuration of the 21st Street improvements. There are a couple of people from the neighborhood here as well. I will turn it back to you at this time."

MICHAELIS "Are there any questions for Mr. Barber?"

LOPEZ "In the original plan that was first discussed, not these modifications that are taking place, traffic flow from Hood to Broadway was a major concern and this Commission pointed that out a number of times. Right now, it is four lanes and it is a major traffic mess. The only difference that I have seen here in this plan is the improvement of the turn bays at 21st and Broadway. Why hasn't the whole span from Hood to Broadway been addressed in the same manner?"

BARBER "If I could speak to that, Mr. Chair. The plan for the 21st Street improvements go west beyond the plan area, as you see it here. I believe there are proposals to put left-turn lanes at Arkansas and Waco. There is a proposal, I believe at this time, to widen the north side of 21st Street all the way down to Hood with 5 to 8 foot of additional right-of-way. But I don't think there are any plans to put any additional travel lanes through, just a couple of turn lanes and making the travel way wider, but no additional lane capacity at this time."

LOPEZ "But at the last meeting we had it presented to us that it was going to be expanded to five lanes with parking on each side. You presented that, and now it has changed again."

BARBER "There is no fifth lanes here. There are some turning lanes."

LOPEZ "So there is no improvement on 21st and Hood to Broadway then."

BARBER "No additional lane capacity."

MICHAELIS "Are there any further questions of Mr. Barber?"

OSBORNE-HOWES "There is no on-street parking like you had talked about before?"

BARBER "No. We couldn't get a consensus on that."

OSBORNE-HOWES "I think that is one of the questions that Richard brought up."

BARBER "Yes, and there was some concern about that, and it has been decided that there will be no on-street parking."

LOPEZ "That brings me back to another concern that was brought up; the concept of Mercado. In discussing it with neighbors, it was not restricted to a one-block area, but a much larger concept. And the plan is still restricted to one block, so this plan is still not what some neighborhood representatives are requesting."

BARBER "This plan only shows a couple of scenarios that there was no consensus on. So you are right, it is not the definitive statement on the Mercado and there is no direction on that, frankly, in terms of the scale, the location, the size."

MICHAELIS "Could we be somewhat in a position here where we could take this, like the Comprehensive Plan and that modifications can be made to it between now and the time it is actually implemented?"

BARBER "Absolutely. This is sort of a living document. I think it is a good spring board for some of these 21st Street improvements, but there are some issues that are going to require further discussion with the community, and at some time in the future, perhaps the plan might need to be amended again."

MICHAELIS "I think those are the kinds of things Mr. Lopez is talking about. Through the proper channels they can probably be put in there."

LOPEZ "Well, this was brought to us as the revised edition, which is mainly the expansion of Broadway and 21st Street at the turn lane. That is the only difference right now. So looking at the other side of the coin, that could be the only thing that can be adopted because the plan, from my prospective and community input, is not complete, versus the Delano plan, when it came here, everybody was in conformance and happy with the Delano plan, or the other plan, the Orchard Park Plan. I believe everybody was pleased with that. This one isn't a done project."

KROUT "I think that from the staff's prospective, what we are saying is that this is where we were able to achieve consensus. There are other areas where we can't. You know as well as I, Richard, that the 21st Street improvements have been delayed and delayed and delayed again. One of the main reasons is that there hasn't been a design plan that everybody understands and looks at and signs off on. Now, that is the one solid thing that has come out of this Committee's discussion and recommendations is how are we going to improve 21st Street?"

That is what leads us to believe that we can advance it to occurring on schedule because now we have an idea about where we need to buy land and what the improvements will generally look like."

LOPEZ "Just to refresh your memory, when we first adopted a study and the design portion in 1999 went through, and in 2000 we were supposed to begin right-of-way, and 2001 was construction. And after the design study was repeated, then this thing was kicked back to 2006 for more input. More input has not resulted in a consensus in that neighborhood at this point in time.

I don't have any problem with the adoption of the 21st Street and Broadway turn lanes and the rest of the plan still being referred back for more work. But this is not a completed plan."

MICHAELIS "Is there any further discussion? Thank you, Mr. Barber, and thank you for your patience on the number of times we started and stopped on this. Is there anyone in the audience wishing to speak on this?"

KIT P. SANCHEZ "I live at 1838 Arkansas Avenue. Ma'am and gentlemen, it seems that it has been a long time in looking at this plan, and as Mr. Lopez has reviewed, there has been a lot of variation from the original intent. I know that my involvement via the Hispanic/Native American Coalition has been somewhat sporadic, not because I didn't want to be involved, nor in the group, but because the City Council person of the district ordained it that way because of some opposition to the Mercado Plan.

It seems to me and the rest of my colleagues that in respect to two primary aspects of this plan, the 21st Street Traffic way and the Mercado that in both instances that we are missing the target completely. Between Hood and 21st and Broadway, for sure, but even yet east, and I know that the boundaries, I suppose, of the funds available to finance much of this project do limit the funding available between 17th Street and I believe 25th, and between Broadway and Arkansas. I will point out, however it is minor, it seems that there is an inclusion for Evergreen Park, I think it is additional police presence. Not that is a bad thing in itself, but at the same time, when the area seems to be having a decrease in overall crime, a location of police outside of the zone that was specified contrary to my point about Woodland Park also being import, mostly in terms of recreation, seem to be contrary to the intent of the project as Ms. Cole has stated before.

But more importantly, it seems that the lack of consensus from the business community and from individuals within the community, doesn't portray the scientific study of what might be found if one were to formally ask the residents and the owners of the property in the area affected. As I understand it, in this plan between 21st and 25th Street, between Broadway and Wellington, maybe, all of the homes would go. That is quite a piece of ground. I know that the church is being held as a sanctuary, as it should be; a lot of us in the community consider it holy ground, for a lot of reasons, but the homes, too, have a history.

I speak for those that perhaps would find some deference to the idea that one can dictate, as it happened in the 1970s and to other communities before when Urban Renewal came through. So this plan is very, very uncooked or unbaked, if you will. There are a lot of things in there that just don't seem to serve the overall intent that many people had looked upon with a lot of joy in the beginning to think that 21st Street, above all, would receive the type of treatment that it needs to provide the traffic way that would very much mirror what we see on the east side towards Wichita State University. And also the inclusion of the International Market, which began, not only with the Hispanic Mercado, but also with the Vietnamese, or the Indo Chinese, I believe International Market.

When the issues of the railroad tracks, and that is a whole 'nother ball game, I know, and also the odor in the area came up, all of a sudden, these weren't so critical to the location of the Mercado. And when the facts seemed to be pointed out that the movement in business and residential seemed to be more west, even towards Amidon, that didn't seem to be so important either. Anyway, there were a lot of things that people found difficult to agree on, but again, there didn't seem to be a scientific approach to checking with the owners and the people that live in the area that would be most affected by the removal of themselves and their properties in the future.

The other needs of the people, as far as recreation, I might point out that Evergreen does not stand alone, and it is under used, we know that. I am happy to see that in some way it is being included here. It is good to see that in the plan you have this idea of business support, of recreational activities for youth, but there seems to be a lot of neglect, too, about the other parks in the area. Minisa Park. I know it is outside of this area, and the Woodland Park area there, too. Those are things that the Coalition and myself would have expressed. If you look at the plan there and you look at the partnerships, I believe it is, beyond the task force, which was only formed maybe a year ago in June. You don't see Hispanic/Native American or Hispanic organizations at all."

MICHAELIS "Do you need some additional time?"

SANCHEZ "I need two minutes if I could, please."

MOTION: That the speaker's time be extended two minutes.

VOTE ON THE MOTION: The motion carried unanimously.

SANCHEZ "Thank you. I tried to note this at an early March meeting at Evergreen. Again, in the presence of the district councilperson, I was not allowed to speak my mind. I only express those ideas that others have brought to my attention through this Hispanic/Native American coalition. I think that our participation in the planning process would have been valuable. I know that other organizations out there, because this is primarily a Hispanic affected program, we think that we should have been included and we hope in the future that if there is any reconsideration, that we will be invited to do so."

OSBORNE-HOWES "What was your name again?"

SANCHEZ "Kit Paul Sanchez. 1838 Arkansas."

GAROFALO "I have a question for you. From your statement, it appears that you are opposed to this plan now? I am not sure whether you are for it or against it."

SANCHEZ "I am opposed to the plan in its current form, yes."

GAROFALO "Okay, what would you suggest?"

SANCHEZ "I would suggest that the Mercado idea, because it is one of the primary issues, be hammered out and that the people in the residential area that are going to be affected by the removal of their homes, by their homes being purchased and such, be scientifically surveyed. I think that we should re-look the issue of Hood to Broadway and the expansion of 21st Street as originally presented. And finally, sir, if there is future participation requested of the public, I would hope that our organization, the Hispanic Native/American Coalition, would be invited. Thank you."

GAROFALO "Okay, thanks."

MICHAELIS "Any other questions? Thank you, sir. Is there anyone in the audience wishing to speak on this item? Please come forward, ma'am."

VERONICA CASADOS "I live at 3257 North Hood Court. I serve on the District VI DAB Board as well as was a member of the Task Force that came up with the plan that you see here today. I wanted to respectfully make some clarifications on some statements that were made earlier.

No. 1 that I think would be most important to you is that the plan right now is not for taking out homes. We are not taking out any homes in that area. In fact, part of the things we were trying to do in balancing what needed to be done is taking care of the commercial need for the people who are going to be in that area, and respecting the homes that are there, which resulted in us not being able to widen the streets as much as was originally proposed. We did not want to remove anybody from a home because of this, okay?

And, I see this as a jumping off point. Most certainly as we present this plan today, it is not complete—we know that. We do though, feel the frustration that this has gone through committee, through committee, through a number of different members voicing their opinions. I guess as a member of the committee, I am frustrated that nothing has been done. I see this as a jumping off place for us to continue.

As far as the representation, I do know for a fact that the Hispanic Coalition, and my husband, Leo Casados, was the president and he was approached many times to send a representative to the task force. So most certainly I saw that the Hispanic Coalition had an opportunity to be represented on the task force that came up with the plan that you see today, and for some reason, chose not to. I personally even said 'is someone coming?'; 'is someone coming? Because I don't officially sit on that Task Force. I know that many people were spoken to and no one actually came to the Task Force meetings. Do you have any questions related to the Task Force? I would be glad to help you with those."

LOPEZ "You made the comment that it is not going to be expanded to 5 lanes because it would be taking homes. How many homes would be affected by that?"

CASADOS "By the expansion of the five lanes? I couldn't answer that. A city official would have to answer that."

LOPEZ "I really don't think there were any affected by it. Going for The Market, you made a comment that you didn't continue with the process of expanding the Market, or even putting in the Market area, even considering it because of homes being taken. How many homes would be taken in that one block area?"

CASADOS "How many homes would be taken out now or in the future?"

LOPEZ "No, right now, in that plan that is there?"

CASADOS "None."

LOPEZ "Thank you. That is all I needed to know."

GAROFALO "This list of names that we were given that says Committee members for the 21st Development. Is that the Task Force people?"

CASADOS "Yes. Although, quite honestly, not all of those attended, but all of them said they were going to attend."

MICHAELIS "Thank you, Ma'am. Is there anyone else in the audience wishing to speak on this item? Okay. Mr. Barber, is there anything additional that you need to add?"

BARBER "No."

MICHAELIS "Okay, we will bring it back to the Commission."

LOPEZ "I guess we have a couple of options. But since I have been involved with this for a number of years and it is still not a completed plan, and there is still a lot of unanswered questions about it, I will make this motion."

MOTION: That the Plan be referred back to the elected representatives of the District Advisory Board, and that they meet with the representatives of the community before coming back to us with a completed plan.

LOPEZ moved.

MICHAELIS "I would like to ask Mr. Krout for clarification. What options do we have here? Are we just supposed to find whether this is consistent with the Comprehensive Plan? Do we have that option?"

KROUT "You do have that option. You can vote to recommend it with changes; you could vote to not recommend it and refer it back, as was suggested. You could do either of those. What I don't know is if you vote to send it back, does that, in fact, delay it from going to the City Council? That is an issue that I will just talk about with the Law office. But that is an option if the majority of the Planning Commission would like to send this back for more discussion. That is certainly an option if you don't feel that it should be adopted."

GAROFALO "Maybe Commissioner Lopez can answer this question for me. What seems to be the outstanding issues that remain? The Market, and the road work for over to Hood?"

LOPEZ "From the original concept when it was discussed, the issue was widening of 21st Street—that was always an original issue—to the same standard as I-135 west to WSU, and the traffic coming from the west to Hood. It is 5 lanes, and traffic is good. This Commission has always stood on that position that we have to deal with the traffic flow. And we have sent it back a couple of times because of that issue.

Then the second one is, of course, the concept of the Mercado. There hasn't been a sitting down and discussing with the total community. This board here is a handpicked board. A 'yes' board, basically. I have stated that at other prior meetings. It is a concept in the mind of officials all over."

OSBORNE-HOWES "Well, I read over this plan and I thought it sounded pretty good. I don't think all of the 't's' have been crossed and all of the 'i's' have been dotted, but it looks like there is plenty of room for further negotiations and further ideas. I am looking at a list of people here and it looks like they have representation from the area. I don't see any reason to send it back again.

I guess I would have to say that I am a little nervous about the political nature of this, and I am concerned about it. I am going to try to separate my vote and my attitude from that. I think this looks like a nice outline for a plan. It looks like a lot of people have been involved in it, and it looks like there has been a consultant or someone who has worked on this. I don't think that is a proper motion."

KROUT "I guess to differentiate between the area east of I-135 and this Broadway to Hood area is that that project was formulated and designed and funded before K-96 opened. We didn't know for sure what the impact of K-96 was going to be. We do know now that the impact has been that it has reduced traffic on 21st Street because it

largely does parallel 21st Street and takes off some of the traffic that used to be on 21st Street as an approved traffic route.

So the traffic on the segment between Broadway and Hood today is well under 20,000 cars, which is, according to your Comprehensive Plan, the standard for deciding whether to go to a full 5 lanes or now. I think part of the process here was to look at how expensive it would be, because there is a narrow right-of-way and it would be tremendously expensive to do 'takings' all along this section of 21st Street from Broadway to Hood. I don't know how many would be residential and how many would be commercial. It would probably be substantially commercial.

But the conclusion that staff came to, and I think it is reflected in the Transportation Plan, and I think that it was accepted by this committee, however they were appointed or represented, that the important thing was to make some key left-turn movements available at the key locations like Broadway, Waco, Arkansas, and then maybe widen the lanes in other places to the more typical standard. That is the kind of approach that we have taken on some other streets too. There are other streets like Hillside and Douglas and west 13th Street, where we think that the impact on the surrounding property may be such that it is just not practical to do a 5-lane improvement. But it also not warranted, according to our current traffic and traffic projections."

GAROFALO "It seems to me like the most work that is planned at this point is the street improvements. That is not until 2006 for the construction, which is 5 years away. I can't see what harm there would be in referring it back so maybe some of these other issues can be ironed out because what would be delayed? It doesn't appear to me that anything would be delayed."

KROUT "I think that the 21st and Broadway improvements will be delayed once again because we won't be able to say that we have reached a consensus on how to make those improvements."

GAROFALO "But we have a 5 year leeway here, don't we? More or less?"

KROUT "But the effort is to try to move that up. If you have been driving on 21st Street between Arkansas and Broadway in the last year or three, you know that it is something that probably can't and shouldn't wait 6 years."

MICHAELIS "I would think, too, that the difference in cost is going to be tremendous if you are talking about building 5 lanes versus what is in there now."

GAROFALO "There is a real possibility of that work being moved up."

KROUT "I think there is."

GAROFALO "A real, real good possibility, but if it is going to remain at 2006, then I don't see any hurry."

BARFIELD "I came in a little late, so if somebody can bring me up to date. Am I hearing that there will now not be the 5 lane street down through there?"

MICHAELIS "That is correct."

BARFIELD "We have heard all of this talk about the traffic problem at 21st and Broadway, but that is an area that I drive frequently. There is also considerable traffic congestion at 21st and Main or Fairview, I believe it is, and also at 21st and Arkansas, 21st and Waco. How do we propose to deal with those issues?"

KROUT "You did come in late, but the plan, as it is laid out is to make left-turn improvements at 21st and Waco and 21st and Arkansas and 21st and Broadway. Does it include Market Street? Okay, and Market. So the idea is that where the critical turning movements are to make left turn improvements in both directions on 21st Street at those locations."

BARFIELD "Except that Market is a one-way street. There is not really a problem with Market. The problem is one block to the west."

KROUT "But there still is a left turn from 21st Street northbound onto Market Street. And part of the plan is to straighten out that intersection of Market and 21st Street."

MICHAELIS "I think we are getting hung up on semantics, and we could sit here and discuss this all day, and I don't know that that is really our position. So in order to move things along here, I think we just need to vote on it and decide whether it is consistent or not. We do have a motion on the floor. There hasn't been a second as of this time."

GAROFALO seconded the motion.

MICHAELIS "Is there any further discussion?"

VOTE ON THE MOTION: The motion carried with 8 votes in favor (Johnson, Warren, Coulter, Lopez, Garofalo, Barfield, Hentzen and McKay) and 6 in opposition (Osborne-Howes, Marnell, Blake, Platt, Warner and Michaelis).

ZONING:

5. **Case No. ZON2001-00012** – Harlin and Janet Gray (owners); Fred Jelich (applicant) request zone change from "LC" Limited Commercial to "GC" General Commercial on property described as:

Lots 1 and 2 Harlin's Addition, Wichita, Sedgwick County Kansas. Generally located on the southwest corner of Central and Tracy.

DALE MILLER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant owns two platted lots (1.1 acres in size) located at the southwest corner of Tracy and west Central Avenue. These two lots are currently zoned "LC" Limited Commercial and appear to be developed with a single-family. The applicant is seeking "GC" General Commercial zoning in order to conduct "vehicle repair, general" (auto body and paint shop) work at this location. The existing building located on the site would be demolished and a new metal building (8,400 square feet) would be built. The shop would have garage door openings on the east and south sides. The primary entrance and reception area would be located on the north side of the building. The applicant's site plan depicts one drive approach to Central and one to Tracy. Both of these drive approaches exist today. The plat permits one access point per lot along Central, with no access control along Tracy. A total of 16 parking spaces are depicted on the site plan. The Unified Zoning Code requires one off-site parking space per 500 square feet, plus three spaces. The applicant needs to provide 20 spaces. A fenced storage area is shown on the southern half of the application area. The screening fence is also shown along the west property line.

Surrounding property is zoned either "LC" Limited Commercial or "SF-6" Single-family Residential. Surrounding land uses are: auto parts sales, auto repair, strip center retail sales; bar / restaurant and single family residential.

"Vehicle repair, general: is first permitted by right in the "GC" General Commercial district. If the site is redeveloped as proposed, landscape street yard, parking lot screening and buffer plantings will be required.

CASE HISTORY: Case Number Z-2880 heard in November, 1987, granted "LC" Limited Commercial zoning for the application area.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC" Limited Commercial; auto repair, auto parts sales, strip retail
SOUTH:	"SF-6" Single-family Residential; Single-family residential
EAST:	"LC" Limited Commercial; bar / restaurant, strip retail
WEST:	"SF-6" Single-family Residential, "LC" Limited Commercial; single-family residential

PUBLIC SERVICES: Central is currently a 4-lane arterial (scheduled to become 5-lanes within the year) carrying 22,884 vehicles on an average day between West Street and Anna. By 2030 the traffic volume is projected to increase to 24,019 average daily trips. A 4-lane arterial is designed to carry 20,000 vehicles at a level of service of "D". Municipal sewer and water services are available. Auto repair centers generate approximately 3 trips per 1,000 square feet of area.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" map depicts this site as appropriate for commercial uses. The "Comprehensive Plan" commercial locational guidelines state that commercial uses not located in planned centers should be guided to other appropriate areas such as the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development. The "Wichita Residential Area Enhancement Strategy Map" depicts this site a "revitalization" area. Revitalization areas are neighborhoods experiencing structural and market decline, but market and development opportunities still exist.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED. However if the Planning Commission feels the request is appropriate, the application should be subject to the following Protective Overlay conditions:

- A. Permitted uses are restricted to those uses permitted by right in the "LC" Limited Commercial district plus "vehicle repair, general".
- B. All parking, storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of ways.
- C. No off-site or portable signs are permitted.
- D. Exterior audio systems shall be prohibited.
- E. All vehicles that are not complete and visually intact or are stored more than 72 hours are to be screened from ground view from abutting / adjoining properties and from abutting streets. Screening shall be of a material approved by the Unified Zoning Code.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. All nearby properties are zoned "LC" Limited Commercial or "SF-6" Single-family Residential. No "GC" zoning and no uses permitted by "GC" are in the vicinity.
2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "LC" and developed with what appears to be a single-family structure. The lot fronts Central, which is a significant east-west arterial. With the Central Street frontage, and the "LC" zoning which allows a wide range of uses, it seems that the site could be developed as zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will introduce additional open storage and a more intense use(s) than is currently permitted on nearby lots. Auto body shops tend to generate more noise and odors than less intense auto repair uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "Wichita Land Use Guide" map depicts this site as appropriate for commercial uses. The "Comprehensive Plan" commercial locational guidelines state that commercial uses not located in planned centers should be guided to other appropriate areas such as the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development. This site does not comply with these locational guidelines.
5. Impact of the proposed development on community facilities: The proposed body shop would not generate any more traffic than uses permitted under the current zoning.

MILLER "This is a request for 'GC' General Commercial on two platted lots located at the southwest corner of Central and Tracy. The applicants are requesting this General Commercial in order to do an auto body and paint shop at this location. The site is currently developed to what looks like a single-family home. I am not sure what the use is because it is zoned 'LC', but it looks like a house. The structure that is on there today would be demolished and they would build a new shop. The depiction of what that shop would look like is attached to the staff report with some elevations. There should be a site plan as well.

From the site plan you can see that they are showing one point of access off of Central and one point of access off of Tracy. The main building would be developed facing Central, more or less. There would be an office area fronting Central, then there would be a garage door opening that would face Tracy, and then on the back side, to the south, there would be three more garage door openings that would face this direction (indicating). The back half of the lot basically would be fenced and be used for the storage of vehicles in various states of repair. It would be fenced. They are showing 16 parking spaces by my calculation. I think they need to show 20, but we can work that out if this gets approved.

With respect to adopted plans, the Wichita Land Use Guide map depicts this site as appropriate for commercial uses, but the policy statements indicate that commercial use that is not located in a planned center should be guided to other appropriate areas such as the CBD fringe area, segments of Kellogg, established areas of similar development, and areas where traffic patterns, surrounding land uses and utilities can support such development.

You can see from the aerial some of the surrounding land uses are an auto repair shop, kind of a strip center that has an auto parts store that has major warehousing back behind and then as you go further east along Central, there are other strip centers with uses that serve automobiles as well. Then immediately to the east, this particular establishment looks like a restaurant/bar, and then there are other strip-center type uses, and then a major shopping center over here (indicating). To the south is a home and other residences further south. There is a

home immediately west and another home, although the lot that is immediately west is zoned for residential use and then the rest of the lots further west are zoned 'LC' Limited Commercial. So you do have a lot of Limited Commercial zoning in the area, and you do have a lot of automobile type uses. But those, and I want to emphasize this point, those are all 'LC' Limited Commercial uses, they are not in the 'GC' zoning district.

In fact, you can go as far west as almost to the Big Ditch before you hit any 'GC' zoning west of this location, and you can go as far east as Gow, almost to Zoo Boulevard before you hit any zoning that is more intense than 'LC'. Then going north and south on West Street, it drops off of the map north of 13th Street from Central. All of those uses are 'LC' uses. There is an 'LC' with a Conditional Use for car sales.

Then to the south, there are only two lots south of Central, before you hit Kellogg that are zoned 'GC'. The reason I am going that far out is that I want to make sure that you understand that even though the uses that are going on in those 'LC' districts, like the car repair shops and some of those, those are uses that are approved in 'LC', but they do not allow outside storage of vehicles. The distinction between the 'LC' and the 'GC' district is that in an 'LC' district you can have a car parked outside for 72 hours before it is considered to be storage. In the 'GC' district, it is permitted by right and there is no prohibition against that. I just want to make sure that you know that if this is approved, that you are permitting a use to allow something considerably different than is what is out there today.

Staff is recommending this request be denied, but if you see it as an appropriate use, there are some recommendations for a Protective Overlay on Page 3, Items A through E. We are not supportive of the request because we do not think that the 'GC' zoning and 'GC' uses are appropriate or in character with the neighborhood as it is set up today. We also feel like that with respect to the suitability of the site that it is zoned 'LC'; and 'LC' allows quite a wide range of uses. Therefore, in our opinion, the site could be used as it zoned today without a re-zoning.

As I indicated before, we feel like the approval of this request will introduce additional uses into the area that aren't allowed today, particularly open storage and then when you look at the Comprehensive Plan guidelines, this particular request does not comply with those locational guidelines from our prospective. With that, I would answer any questions."

MICHAELIS "Are there any questions of staff?"

BARFIELD "Is your biggest objection the outside storage?"

MILLER "I think the biggest objection is that the Comprehensive Plan says that these kinds of uses are supposed to be located either in areas where they already exist, or along Kellogg, or along the CBD fringe, and this is not any one of those places. It is not consistent with the way the neighborhood is developed today in the zoning that is there today."

BARFIELD "Can you go back to the slides? I just want to go back to the aerial. I think you pointed out that directly across the street was an auto repair business?"

MILLER (Indicating) "The auto repair business is right there."

BARFIELD "And right to the west of that is an auto parts store, is that correct?"

MILLER (Indicating) "Right here are two homes."

BARFIELD "I mean on the other side of the street."

MILLER "Oh. There is the auto repair shop there (indicating), and then the parts store is basically east of that."

MICHAELIS "Are there any further questions of staff?"

KROUT "Dale, we have, for years, distinguished between body shops in General Commercial and limited auto repair in Limited Commercial districts; not just because of the outside storage, but because paint and body shops do tend to cause more complaints in neighborhoods due to the level of noise and the level of odors that commonly occur from the heavier uses. That is why, traditionally, they have been distinguished and the heavier paint and body shops have been treated in the different zoning district.

One of the things that you and I talked about was that if this was approved, would the applicant be willing, in addition to the other conditions you have suggested, to keep the overhead doors closed that are facing out south towards the residential district."

MILLER "Yes. We will have to ask him if he will agree to that or not."

KROUT "Okay. I know that we asked that of someone once before and they said that that was not practical."

MICHAELIS "Okay, thank you, Mr. Miller. Can we hear from the applicant, please?"

DAL ECK "I am the agent for the applicant. We, of course, picked this site because of the heavy automotive related businesses. And to go a little bit further than what Dale went, directly across the street to the east is this bar, and then probably another 200 feet east of that is another automotive repair place. Then directly across the street to the north from that is another automotive repair place. The automotive repair place directly north of the site, which is Automotive Supply, has a huge warehouse in back, and they also have a machine shop in there also. So within a one-block radius, both directions, there are seven auto repair related businesses. We contend that sure there will probably be a little more noise, but the same basic tools are used, the air ratchets, chisels, hammers, or grinders in an auto repair business as in an auto paint business.

The applicant can speak himself about the type of paint he will use, but basically he will tell you that it will scrub off 96% of all of the contaminants released into the air. His business has been in the same location on West Bounous, west of West Street, south of Harry for 18 years. It is on a dirt street in an industrial area. He has outgrown that site and there is no paving there—not a lot of consensus to pave the area. So he picked this site. The cost was one factor; of course, up and down Kellogg the lots are a little more expensive for the smaller guy.

We would like to get the same treatment that the body shop at Central received. There is the Scholfield Body Shop right there at Central and Tyler, and it directly abuts residential property on the west side. Going by staff's recommendations that they want to direct these into areas where they are already at, such as the older industrial areas that have the little less expensive houses that have been rezoned and torn down. We feel that this is a better fit in this location than what was approved in that location, if you go by the value of the tax base around. I will let the owners, who are, of course, in favor of doing it. They live directly south of here and I will let them speak as to the noise of the bar directly to the east, and of course, current zoning would allow another restaurant/bar situation where it is on this lot. I think that will entail a lot more noise later in the evening than what the applicant has requested.

I think the only other thing I might add is that the residential property directly to the west of this, I believe would be residential, but everything else is Light Commercial along there, so it probably would be rezoned Light Commercial at some point in time. So there really won't be any direct abutment to residential property with the exception of to the south. The distance from the building to that property line, I believe, is about 90 feet, so that is a little bit of a buffer along with the insulation qualities of the building, so we believe that the noise and the smell will not be a factor.

Yes, there are obviously many uses for the site, but I will let the Grays talk about that. The site has been for sale for many, many years and of course now, we can hopefully get something out on that end of it. The applicant will agree to all of the conditions. As a matter of fact, these conditions are conditions that we spoke with staff on at the initial meeting, A through E, and I know that he will agree to keep the doors on the south closed as much as possible. He obviously will have to open them to bring the cars in and out. And he has also agreed to the storage of the vehicles. He is very flexible. He is not asking for anything but an auto body shop, that is his business. He is not asking to be able to sell it for a car lot in the future, or anything like that. Thank you. Are there any questions?"

OSBORNE-HOWES "I just want to double-check. Did staff tell you that a bar could go in this location?"

ECK "They said that a restaurant/bar could go in there."

OSBORNE-HOWES (Directed to staff) "Is that right?"

KROUT "Because it is within 200 feet of a residential district, a use that sells more than 50% of its receipts in liquor sales couldn't go in except by Conditional Use. A restaurant that does serve alcohol but it's majority is food sales could."

OSBORNE-HOWES "A restaurant could, but not a bar. Okay."

ECK "It was my understanding, and I didn't get this from you, Mr. Krout, but a band can still play in that set-up, is that right?"

KROUT "Yes."

BARFIELD "Sir, can you tell me what the hours of operation will be?"

ECK "I believe Mr. Jelich isn't open past 6:00 o'clock, are you sir? "

JELICH (From the audience) "It would be like from 8:00 a.m. to 6:00 p.m."

BARFIELD "And would there be any outside storage?"

ECK "He has agreed to store all wrecked vehicles inside. That is one of the reasons for the big size of the building."

LOPEZ "Could you point out those other auto body shops and automotive shops you were talking about? Dale mentioned that there was one across the street to the west."

ECK "Okay. (Indicating on slide) To the northwest, right here is the West Side Automotive Repair; this area here is Automotive Supply with a machine shop for rebuilding motors and doing machine work, and then, of course, they have just added a big warehouse in the back. There is now probably a warehouse at least as big as the original structure. Then there is a printing shop here; R D Paint supply here. Now, in this location is Allen's Auto Repair. It is a big, huge building. There is a vacant lot here; this is O'Reilly's, and of course if you go down to West Street you have Safe-Light Auto Glass and then going up and down north and south, you have additional ones. Then back here is the bar; right here is the Professional Automotive Repair, which is a full-service auto repair and oil change place. So there all of those in this area right here, and we feeling that we are generally fit in that area."

GAROFALO "Mr. Eck, I just want to clarify, make sure that I understood you correctly. On Item E, if this was to be approved, Item E talks about 'all vehicles that are not complete and visually intact or are stored more than 72 hours are to be screened'. Are you saying that your client would put these vehicles inside and keep them inside?"

ECK "Yes, sir."

GAROFALO "Then what would be outside?"

ECK "Basically nothing."

GAROFALO "Well, you would have cars that you had already worked on."

ECK "Right. And it is the same deal until somebody comes and picks it up and does all of that, yes. But basically, one of the reasons for the size of the building was so that he would have flexibility, knowing that we were going to need to make some concessions. Like I said, he is not asking for unlimited, he is in agreement with all of these Protective Overlay conditions."

GAROFALO "So if Item E were changed to say that they would be stored inside, within the building rather than just screened, you would be in agreement to that, your applicant would?"

ECK "Yes, that is what we had spoke about. We obviously knew that we would have to screen the entire perimeter behind the building. I don't know if we made it clear to staff or not that we would be willing to put those inside. As a matter of fact, I remember talking about that in the meeting. He would be agreeable to keeping that stuff inside."

GAROFALO "Marvin, would they still be required to put up screening if that condition were changed? Say there were going to store the vehicles inside."

KROUT "Well, as part of the new construction, there would be a requirement for a 6-foot screening fence along the south line whether or not they were storing outside."

MICHAELIS "Mr. Eck, I want to clarify something. I think this is a critical question and answer. Maybe the owner would be the one to answer it, but typically when I go by and see an auto body repair shop, the scenario I see is that the wrecker hauls in a car that is not drivable and sets it on the lot and it sets there for 2 or 3 weeks until the parts come in and then it goes inside and gets fixed and then taken away."

So you are saying that whenever that wrecker brings that wrecked vehicle in there that it is going to set inside for the time frame it takes to get the materials to fix that?"

ECK "I believe that Mr. Jelich will be happy to answer that. He is saying yes, with the exception of moving in and out to arrange these vehicles. But this 72 hour deal, he doesn't care about being able to do that."

HENTZEN "Let's get by this bias that the staff has against auto repair businesses. All kinds of auto businesses. If this landowner is required to put a screening wall all the way around his property, and then we are going to say 'well, you've got to park everything inside'. That is stupid. If we require screening all the way around, what else do you need? With all of the other uses for the auto business surrounding this piece of land, I couldn't figure out a better use for it.

I have been out there and I am surprised that the staff recommended denial. It is a perfect use for it. If it doesn't exactly fit the mumbo-jumbo that is in the Comprehensive Plan about west Kellogg or east Kellogg, so be it. We are supposed to decide these things on the basis of an individual case. What is good common sense on this case? Just to barter with the occupant because he thinks it might be denied and he is going to agree to put everything inside? Why don't we just make him put booths in there and put only one car in each booth, so if a customer comes in, they can't see the rest of them. I am sorry."

ECK "We appreciate that, Mr. Hentzen. We were thinking along those lines, too, but we were trying to be very flexible with staff to try to give accommodation."

HENTZEN "I understand."

MICHAELIS "With all due respect, Mr. Hentzen, those were issues that they brought up and suggested that they do. We weren't asking that of them. Are there any other further questions?"

BLAKE "I have a question for Dale. Was there any opposition to this site?"

ECK "I haven't heard of any. Maybe Dale could say something. The owners are here and maybe they would know more than I. Sorry. But I have not heard of any."

OSBORNE-HOWES "I would just like to finish hearing the case before I decide to vote on it. I have a question. This is just a minor question, but I drove by and I couldn't see the sign about the zone change. Is it out there?"

ECK "Yeah, it is west of the first house, probably 50 feet."

HENTZEN "It is on Central."

ECK "Yeah, it faces Central."

OSBORNE-HOWES "Okay. I looked and didn't see it."

ECK "We put it up where the most cars could see it. It is definitely there."

OSBORNE-HOWES "Okay, thank you."

MICHAELIS "Before we go further, I would like to remind the Planning Commissioners that it would probably be wiser for us to hold our comments until the public hearing is over."

MILLER "Just to respond to Mr. Blake's question, this is going to the DAB on the April 4. They don't meet until after this particular meeting. But I haven't received any phone calls. Whatever that is worth."

MICHAELIS "Is there anyone else in the audience wishing to speak in favor of this application?"

FRED JELICH "Hi. I am the one who wants to build the building there. If I sound nervous, it is because I am. I just want to say a few things about your concerns about maybe noise, smell and storage. I don't see a reason why any body shop would want to store a vehicle for a long period of time. A couple of days usually, and I am not wanting to run a salvage yard or anything like that and have old, wrecked vehicles around to use for parts, etc.

I have some information on a modern paint booth, just like what is used in all of the newer shops. It conforms to all of the federal and state codes. It says here that they are 96% or more efficient, which is more than what my present booth is because I have an old antique one right now. Plus, over the past 10 or 15 years, the EPA has mandated the organic compounds in paints to be lowered from around 50 to 60% to less than 5%, and that is the part of the paint that you smell. They are 95 to 100% solids now, which means that what is sprayed on the car stays on the car and doesn't go out into the air. Of the part that does go out in the air, the new paint booths are 96% or more efficient in taking those out.

As far as the noise, an auto body shop compared to a mechanical shop, I think it is really an unfair thing that we are treated differently. Twenty-five years ago, that was probably the case because there was a lot of metal beating and stuff like that. Nowadays, and over the past, say 20 to 25 years, that has changed from what used

to be 5% of parts were replaced and 95% were beat around and straightened, to approximately 95% of damaged parts are replaced, which is a bolt on proposition and maybe only 5% are repaired. There is not any more noise involved in replacing a water pump on an engine, which is allowed in Limited Commercial zoning.

One of the reasons that I like this location and I would like to be in this area is because of the other automotive type deals around. The traffic is already there for an automotive repair, plus there is not a whole lot that auto body shops that have access that is easily accessed by the northwest part of Wichita, which is growing. If it was up to me, I would be at the corner of 21st and Maize Road, but I don't think McDonald's would sell me their building very cheap. And I don't think you would let me put it there. That is about all I wanted to say, just those things. If you have any questions, I would be glad to answer anything, particularly about auto body repair. I think if there was any research done now on modern auto body shops, as far as the zoning and the things allowed, if it was done today, I am sure that a mechanical shop and an auto body shop would pretty much be same anymore."

MICHAELIS "Are there any questions of Mr. Jelich. Is there anyone else in the audience wishing to speak in favor of this application?"

HARLIN GRAY "I own this property and I am trying to sell it to Mr. Jelich, subject to your approval. My wife and I are the residents to the south of there. We expect to continue living there. If you think a body shop makes noise, you haven't lived across the street from a bar. He knows when to go to bed. Those people over there don't know when to go to bed. And that is another whole subject. But if we are tied to a noise problem, I would like to ask you to reconsider that. I think he pretty well explained the odor problem. With those two out of the way, is there something else that I am missing? Okay, thank you.

By the way, I have been by Mr. Jelich's body shop. It is neat, it is clean and there are no junk cars there. I have been by his house, it is neat and clean and there is no junk there either."

MICHAELIS "Is there anyone else wishing to speak in favor of this application? Is there anyone wishing to speak in opposition to this? Oh, does the applicant need any time to offer any additional comments? Okay. Have there been any outside contacts on this case? Can we start, as a matter of policy to make that a normal statement at the start of the meeting? We seem to pick out certain cases that we ask that question on, and other ones we don't."

KROUT "You could ask that question before the public hearings start."

MICHAELIS "All right. From now on, we are going to make it part of the opening statement. If you have had any ex parte contacts, please make them at that time."

MARNELL "Mr. Chair, I think that would be an excellent idea because it appears to me as if staff has a bias against certain applicants that come forward and always ask that question."

MICHAELIS "We are going to make that change."

MARNELL "An excellent suggestion."

KROUT "If that is true, it is subconscious. Purely subconscious."

Laughter here.

WARREN "I went out and looked at this site, in fact two different times. I think the question before us is not nearly so much whether this should be General Commercial or Limited Commercial, but the question should be a suitable and acceptable business to put at that location? That decision being made, then we can modify either of those zonings so it is compatible and acceptable to the neighborhood around it.

For a long time, I have felt that we have painted an unjust perception on the small 'upscale body repair businesses', and we are using that as a comparison of many years ago when the larger, more ungarnished shops were about. I don't think that is what they are now. I think it is a total injustice that we ask a small body repair business to have General Commercial zoning. I don't think that should be necessary. I don't think they are any more intrusive or offensive than a retail tire shop, a muffler shop, and a brake and wheel alignment shop, all of which can go into Limited Commercial. It is certainly no more than a service station with bay doors up and down all of the time; vehicle sales, which we know we approve all of the time with a Conditional Use in Limited Commercial.

I would like to say, and most of you know that I live out in Derby, that we have three body shops that are very apparent in our community. We have the Collision Specialists, when you arrive in Derby from the north that is the first building you see. It is very much a part of our community. It is not offensive and I have never heard a

complaint about anything—storage or anything else. We have the Shelton Body Shop, which actually backs up right into the neighborhood. It is very well screened, very well landscaped, a part of the community. We have a brand new one, Auto Masters, that came in and took a building that we were all sick of, the old Hamford Ford building, and have made a beautiful building out of it. It is a great attraction.

So, again, we approve such things as car washes, convenience stores, national food chains, all of which I think are even more offensive than what we are talking about here. I think until we get around, someday, to recognizing this and revising our ordinance so that these things can be done with a Conditional Use, that we should consider this business and with General Commercial zoning, and limit it to those things that we can put in Limited Commercial. Then, make whatever other limits that we want on there, such as increased screening, which he has agreed to. I think this board should not be influenced by the fact that we are going to go to General Commercial zoning. It is not unencumbered General Commercial zoning we are talking about. We are talking about very limited to allow one use, and that is the only thing that equates with General Commercial. So, I am going to be in favor of this."

MICHAELIS "Was that a motion?"

WARREN "I will make it a motion."

MOTION: I move that we recommend to the governing body that the request be approved, subject to staff comments and the additional provisions of a Protective Overlay below:

- A. Permitted uses are restricted to those uses permitted by-right in the "LC" Limited Commercial district plus "vehicle repair, general".
- B. All parking storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-ways.
- C. No off-site or portable signs are permitted.
- D. Exterior audio systems shall be prohibited.
- E. All vehicles that are not complete and visually intact or are stored more than 72 hours are to be screened from ground view from abutting/adjoining properties and from abutting streets. Screening shall be of a material approved by the Unified Zoning Code.

WARREN moved, **BARFIELD** seconded the motion.

MICHAELIS "Is there any discussion?"

PLATT "I want to make it very clear that this Commissioner does not approve of car washes and used car lots and that sort of thing in residential neighborhoods. And I don't vote for them. I think it is a sad day, indeed when we start talking about saying that body shops are compatible uses with people's homes. The saddest thing about it is, it seems to me, is that these things are always approved in certain parts of town, but we don't see them put in other parts of town. I think that is a very, very sad commentary on this community. I shall vote against the motion."

OSBORNE-HOWES "I think that zoning has a lot to do with what we are all about here today and what decision we make. I guess I have a question. It is currently 'LC' zoning. Is there any way that this use can go in 'LC' zoning? Does it have to go in 'GC'?"

MICHAELIS "Did you get an answer?"

OSBORNE-HOWES "Well, I just wanted to know if there is any way. Zoning is what we are doing here today and we can talk about the use, but the zoning, we are talking about changing this to 'GC' zoning. It is adjacent to single-family zoning and I have some concerns about that."

GAROFALO "I have some concerns about that also. But given the complex of operations around there, it seems to me like one of the major concerns with 'GC' is the outside storage. The applicant himself has agreed to store these beat up vehicles indoors, and it seems to me that with the applicant agreeing to store the damaged, inoperative, or whatever vehicles indoors, that maybe that alleviates the situation. But I would not support the motion unless that were included in the Protective Overlay as the applicant has suggested that he would do, in

addition to having some screening to the south where the residential is. With that change, I would possibly support it."

JOHNSON "I think that being associated with a number of body shops that we have been involved in, in fact one was in Derby that we just finished, that market is totally different than even what I can conceive it as being years ago. This day and age, it appears that it doesn't take a whole lot of damage to lots of vehicles to classify them as being totaled. We had a case earlier today about a yard where there were lots of cars and that is why there were so many of them because it doesn't seem like it takes a lot of damage to classify them as being totaled. So they don't sit around like they used to. I think the applicant made a really good comment about basically most of the things are interchanged anymore, like fenders, hoods, grills. With what labor costs today, they can't justify it.

So I guess I see what staff's position is, and if this was something that was real noisy or there weren't regulations on fumes and waste and getting rid of the products that comes out of the body shops, I would probably be opposed to this, but I kind of agree with the inside storage of vehicles and the other operations around this, and in this particular case, I could support it. I guess I would like to have staff maybe review the body shop deal again because I guess the last thing is that once we give zoning on a property, it can be a real neat place, or it can be a real eyesore. Maybe there are some regulations or something that could be addressed so that if there was something left setting around too long, maybe it would be done with something other than zoning."

HENTZEN "I hate to see us change the zoning. All the zoning there is Light Commercial. Can we give a Conditional Use permit for a specific thing?"

MILLER "No."

WARREN "We've got to make it General Commercial and modify it down."

HENTZEN "Well, that is what we need. Why can't we do that? Let's change the law."

MILLER "It is not legal today to do that. It is not the way the Code is written."

HENTZEN "Well, we are going to be adopting those Code changes soon, I think, that Donna has been working on. Why don't we do that?"

MILLER "I think while we are at it, we might as well throw in all of the automotive uses, put them in 'LC' and say they are a use by right, and then see what happens."

HENTZEN "Well, that is one alternative."

MARNELL "I wasn't going to comment, but I think I will now. We are in the process of re-writing the Code right now, and I think this might be one of the areas to consider. Another one might be small automobile sales lots because that seems to be one that I think there is a clear staff bias against. At the same time, I think there are probably areas that aren't appropriate to have 500 cars displayed, so maybe we ought to think of that in that context. I know that is outside of this particular issue, so I will limit it to that."

BARFIELD "I have two questions for Dale. No. 1, why are we hearing this before the DAB forwarded anything to us?"

MILLER "Because the DABs don't meet the second time during the month. When they were originally set up, they were going to meet twice a month so that they matched up with the Planning Commission. Now, all of them but one do not meet twice a month, so our instructions have been to keep these applications moving along, rather than telling somebody that we are not going to move the case on because the DAB doesn't meet and then make them wait until the next Planning Commission following that. So we have been bringing them to you on the second hearing of the month and then taking those comments to the City Council if it goes on."

BARFIELD "My second question is, other than the gentleman who owns the property, where is the nearest residence there?"

MILLER "Immediately next door to the west."

BARFIELD "But isn't that the gentleman who owns the property?"

MILLER "No, there is an vacant lot in between. There is this first house here (indicating), and as I understand, the property owner who is selling this to the car body shop is here. Is that correct?"

ECK (From audience) "Correct."

BARFIELD "Okay, I generally would tend to agree with the comments made by Commissioner Platt. Oftentimes, we are asked to change single-family zoning to General Commercial to accommodate these types of facilities. That is not the case here. And with the relationship to other similar types of businesses in this location, I would tend to be in favor of supporting this motion on this particular occasion. That doesn't mean that I would do that on the next one."

But I do think there is a difference when we are talking about changing single-family to commercial than there is going from Light Commercial to General Commercial."

MICHAELIS "I would just like to echo that, too. Mainly in respect to Dr. Platt. I think his comment was well made. But the fact that this is already Limited Commercial and not residential zoning makes a big difference in my opinion."

OSBORNE-HOWES "I just need a clarification. Did the motion include having inside storage."?

MICHAELIS "No, it did not. It was subject to staff recommendations."

WARREN "Well, as the motion maker, I am a little bit with Commissioner Hentzen. There is going to be need, and that is why we screen this back yard, so you can't see in."

OSBORNE-HOWES "I just wanted a clarification."

WARREN "Well, no, the motion doesn't include that, unless I am forced into it, I probably won't go with that."

MOTION: That the question be called.

WARNER moved, **WARREN** seconded the motion, and it carried unanimously.

MILLER "We will probably need some findings to support his motion. Our recommendation is for denial, and all of the findings are for denial."

MICHAELIS "Well, I think we have been talking about that for the last 30 minutes."

MILLER "So you are comfortable with that, then?"

MICHAELIS "Yes."

MILLER "Okay."

GAROFALO "Wait a minute. I want to ask...."

MICHAELIS "Well, you can't. We've called the question."

VOTE ON THE MOTION: The motion carried with 11 votes in favor (Warren, Warner, Michaelis, Marnell, Barfield, Hentzen, Lopez, Blake, Johnson, McKay and Coulter), and 3 in opposition (Platt, Garofalo and Osborne-Howes).

6. **Case No. ZON2000-00054** — El Caudillo, Inc. (Stan Lawrence), Baughman Company, P.A. (Phil Meyer) request a zone change from "SF-6" Single-Family Residential to "MH" Manufactured Housing on property described as:

A tract of land beginning 945 feet east of the SW corner of the N1/2 of the NW 1/4 of Sec. 20, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas; thence east 329.5 feet; thence north 660 feet; thence west 329.5 feet; thence south 660 feet to the point of beginning.

And

The east 718.56 feet of the west 1995 feet of the S ½ of the N ½ of the NW ¼ of Sec. 20, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas.

And

The S ½ of the N ½ of the NW ¼ of Sec. 20, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas, except the railroad right-of-way and except the north 330 feet of the west 1274.5 and except the south 330 feet of the west 1276.44 feet and except the east 718.56 feet of the west 1995 feet. Generally located east of Seneca approximately ¼ mile and south of 47th Street South approximately ¼ mile.

DALE MILLER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant owns an existing manufactured housing park (El Caudillo) located approximately ¼ mile south of 47th Street South and east of Seneca. Since acquiring the park, the applicant has completed various improvements and he feels that there is sufficient market demand to warrant expansion of the park. The 24.6 acres immediately east of the existing park is currently vacant and zoned "SF-6" Single-family Residential. The applicant is seeking "MH" Manufactured Housing zoning for this unplatted acreage in order to add 129 additional manufactured home spaces. Density of the proposed park is 5.24 units per acre. The site plan submitted with the application depicts the proposed layout. Two points of access are depicted. One access point would be west through El Caudillo Park to Seneca with a second access north via Laclede Street that connects to 47th Street. Each home space has a minimum area of 5,000 square feet with two parking spaces. The entire site would be fenced with a 6-foot privacy fence. Five play areas are depicted amounting to 1.63 acres. A 15-foot landscape buffer is shown along the north and south property lines. The landscape buffer will be planted with 107 oaks and cedar trees. Total open space is 4.1 acres. A 25-foot set back is shown along the north and south property line. Two storm shelters are shown on opposite ends of the park. Sidewalks are depicted along the circular collector street.

The land to the north is developed with single-family site built homes and a church. 48th Street is located immediately north of the western half of the application area, and is a sand and gravel street that connects westward from Laclede. There is an existing tree row located just south of 48th Street (but it is probably located in an area likely to be used for additional street right-of-way if 48th Street is improved). Laclede Street is also a sand and gravel street. Property to the east is a drainage area and further east there are railroad tracks. Beyond the tracks are warehouse uses on "LI" Limited Industrial zoned land. Land to the south is vacant, but used for cropland and is zoned Single-family Residential. Land further south is developed with residential uses. Land to the west is the existing manufactured home park and is zoned "MH" Manufactured Home.

The Unified Zoning Code requires a minimum site size of 5 acres for "MH" zoning in the City of Wichita. The Code requires a minimum lot width of 200 feet for parks. Minimum setbacks are 20 feet from public street right-of-way, 10 feet from all lot lines and 5 feet from private roadways. A minimum separation of 10 feet shall also be maintained between all manufactured home units within the park. The maximum dwelling unit density permitted is 8 dwelling units per acre. Maximum height is 35 feet. Compatibility setbacks of 25 feet are required along the north and south property line. Dumpsters and refuse receptacles are to be located a minimum of 20 feet from property located to the east. A landscape buffer that is 15 feet wide (with one shade tree or two ornamentals every forty feet, 1/3 of the plants are to be evergreen) or a solid screening fence is required along the property line.

Further, Chapter 26.04 of the City Code requires the submission of a development plan with the zoning application for approval by the City Council. The plan is to show the relationship of the home spaces to roadways, parking, open space and other information affecting the overall park environment. Key requirements include: all spaces are to have access from a park roadway (no space is to have direct access to a public street or highway; all roadways are to be paved; parking is to be provided per the zoning code; sidewalks are to be provided per the sidewalk ordinance; eight percent of lot's gross area is to be set aside for recreation area, with a minimum size of 10,000 square feet; parks with over 10 spaces must have a storm shelter that is located no further than 1300 feet from the furthest home and all spaces are to be identified.

The site plan submitted with this application appears to comply with code requirements. The open space/recreation area could be more useful if combined into one or more larger, contiguous parcels.

CASE HISTORY: The application area is located in a part of town where the Land Use and Research Division is currently working with south side area residents and a consultant to develop a detailed land use plan. The development of location and design criteria for manufactured homes is one of the policy areas to be developed through this planning process. The study is to be completed in May 2001. The applicant was willing to defer the case to provide time for public meetings with area residents and the south side planning team. Staff had one meeting with the south side planning team, and the applicant had a second meeting with area residents as well. After lengthy discussion, the consensus of those on the south side steering committee members in attendance was not to support any further manufactured housing or conventional housing development at this site, or any other sites in the area until "adequate infrastructure" is in place to accommodate further development.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-6", Single-family Residential; residences
SOUTH: "SF-6", Single-family Residential; agricultural
EAST: "LI", Limited Industrial; warehouse
WEST: "MH" Manufactured Housing; manufactured housing park

PUBLIC SERVICES: Seneca – a 4-lane arterial - carries 14,719 average daily trips while 47th Street South – an arterial - carries an average of 10,500 average daily trips. Laclede – a local residential street - is currently a sand/gravel street with 60 feet of right-of-way. 48th Street is a local street with 30 feet of ½ street right-of-way. Projected traffic generation from this site as a 129-unit manufactured home park is projected to be 620 average daily trips. (The traffic manual indicates that manufactured home parks generate 4.81 trips per dwelling unit on average.)

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide depicts this site as appropriate for "low density residential" which is suitable for single-family detached, zero lot line, cluster and planned residential development at a density of 1-6 dwelling units per acre. The Comprehensive Plan's residential location guidelines state that manufactured home parks should be located on larger tracts, buffered from single-family neighborhoods by physical barriers (e.g. freeways, drainage ways, railways). The "Wichita Residential Area Enhancement Strategy Map" depicts this site as a "conservation" area. Conservation areas are basically sound, but need to be protected from future structural and market value decline.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED. Recent analyses by the department indicate there is still considerable acreage that is already zoned or more suitable for this use, that units in manufactured home parks depreciate or appreciate slower than other units, and that housing closer to these parks has lower average values. Manufactured homes in parks also reduce demand for the larger stock of affordable older housing in the community that is in need of revitalization. This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area surrounding the application area is a mix of "LI", Limited Industrial, "SF-6" Single-family Residential and "MH" Manufactured Housing zoning. Land uses include a manufactured home park, larger lot single-family residences, warehousing and undeveloped land used for cropland.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "SF-6" Single-family Residential which permits primarily single-family residences on lots with a minimum lot size of 6,000 square feet. Utilities are available to serve this location, as is access to a section line road without connection through the existing manufactured home park via Laclede. The applicant whose business is developing manufactured home parks owns the application area, but the site is also suitable for single-family homes whether site-built or residential design manufactured homes.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Manufactured home parks are widely perceived as detrimental to site built property values, and university reports supplied by a manufactured home representative do indicate that average housing values are higher with greater distance from manufactured home parks. There is a broad consensus among south area residents that the southern part of the city already has more than its fair share of manufactured home developments, which discourages site built developments.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Wichita Land Use Guide depicts this site as appropriate for "low density residential" use which is suitable for single-family detached, zero lot line, cluster and planned residential development at a density of 1-6 dwelling units per acre. According to the Comprehensive Plan's residential location guidelines state that manufactured home parks should be located on larger tracts, buffered from single-family neighborhoods by physical barriers (e.g. freeways, drainage ways, railways). This site does not appear to be sufficiently buffered from existing residential uses.
5. Impact of the proposed development on community facilities: No impact identified.
6. Neighborhood Support or Opposition: Based upon comments received at meetings attended by staff it appears there is wide-spread vocal neighborhood opposition expressing concern with property value, extent to which manufactured home parks discourage site-built development and the general feeling that the south side already has more than its fair share of manufactured home parks.

However, if the MAPC should determine that MH zoning is appropriate, staff recommends that rezoning be subject

to platting and development be in conformance with the submitted site plan. As part of platting process, staff would be looking to the applicant to pave Laclede Street to 47th Street and a possible left turn lane on 47th Street to Laclede.

MILLER "This is a request for manufactured home zoning. There is an existing manufactured home park here (indicating) called El Caudillo. The applicants own the area outlined in black, which is the application area. It is approximately 24.6 acres in size, is currently zoned 'SF-6' today. The applicants are seeking the 'MH' zoning so that they can expand this park into this area and add approximately 129 home spaces on the site. I think there is a ledger-sized site plan that should be at your table.

On that site plan, you can see that there would be two points of access to it. One would be through Laclede, coming off of 47th Street. This is basically a two-lane sand and gravel road today. There is a church on the lot immediately to the west of Laclede. There is a fairly significant tree and hedgerow along the north line here (indicating). There is a break in that hedgerow right here (indicating) where Laclede would continue on if it did. The second point of access would be through the El Caudillo Park itself. They are proposing to fence the entire site with a 6-foot privacy fence and I think as the site plan depicts, there would be a 15-foot landscape buffer that would be shown along the north and south property lines. They are also showing a dedication of the other half-street of right-of-way, or what would be 48th Street here (indicating). Forty-eighth Street is a half-street dedication today and it is just a gravel driveway, is what it amounts to. It serves the homes that are located here (indicating). There are single-family homes in through here today. (Indicating) this is farm ground down here with single-family homes to the south. There is a nursery over here.

Some of the history on this—this is a relatively old application, but the applicant has agreed on a couple of occasions to defer this request. As you know, the Land Use Research division is currently working on a plan that covers the south side, and this is in the planning area. Staff was hesitant to move forward until that planning committee would have a chance to comment on this application. Part of the consultants' charge, who were working on that, was to try to come up with location and design criteria for manufactured homes and to develop a policy statement. That has not happened yet, but we have had a DAB meeting at which there was not a quorum that night, so there isn't a specific recommendation from them for you to consider on this particular one.

There was a south area planning meeting that staff attended and there were probably 40 to 50, maybe 60 neighbors at that meeting, and then the applicants have also had a separate meeting on their own. So this particular application has been 'met to death' so to speak.

The consensus of the Planning Committee, with respect to the policy was that they do not support any further manufactured housing or conventional housing development at this site, or any other sites in the area until adequate infrastructure is in place to accommodate further development. That is their position as it stands today.

With respect to the Comprehensive Plan's residential location guidelines state that manufactured home parks should be located on larger tracts, buffered from single-family neighborhoods by physical barriers, such as freeways, drainage ways or railways. This particular area is shown by the residential area enhancement strategy map as a conservation area, meaning that it is basically sound but needs to be protected from future structural and market value decline. We are recommending denial on this one as well, for the reasons found on Pages 4 and 5 of the staff report.

There is a large area of agricultural use to the south; large lot residences to the north; a large lot residence nearby, and it looks like they have horses and other kinds of things. The Boeing surplus warehouse facility is also near; and there is a drainage easement and a railroad track that runs along the east side, and the El Caudillo Park itself; a nursery area, and some more single-family homes to the west. There is a church located just west of the access point of Laclede coming in from 47th Street. There are some homes west of the church that gets their access from 47th Street. Forty-eighth Street goes straight west as it bends off of Laclede, and if this road were ever improved to a full right-of-way width, the trees on it would probably come out. That is why the site plan is depicting the additional landscaping along that north line. With that, I would try to answer any questions."

WARREN "El Caudillo would be to the east and you are saying that they would come through the existing park going out to Seneca, but I don't see that on this map."

MILLER "That map doesn't show the existing park."

WARREN "I don't see the entrance is what I am talking about."

MILLER "There is a way to get in there. (Indicating) Right there."

WARREN "That is fine, but it doesn't show up that that is going to be allowed to go on in. Right now, if you drive through there, it looks like it goes into that field, but this thing doesn't show it."

MILLER "Well, that is the field."

WARREN "I know it, but there is no approach here."

MILLER "There should be."

WARREN "Oh, that goes to the east. I am wanting to go to Seneca. You guys are going the other way."

MILLER "Well, when you get out there in the real world, there is a way to get from where they are showing to Seneca."

(Laughter here)

WARREN "I was in the real world and I drove through there. But all I am saying is that if you look at the west end of this plat, there is a solid line of manufactured homes....."

MICHAELIS "That is the east end, Ray. Turn it upside down."

WARREN "Oh, okay. I thought El Caudillo was on the east."

MICHAELIS "No, it is on the west."

WARREN "Oh, that is on the west. Okay. Now, I'm straight."

WARNER "Dale, does the staff agree with the assessment on the adequate infrastructure?"

MILLER "Whether it is inadequate? I think the planning consultant that is working on that plan is supposed to be looking at that. I would assume that the infrastructure down there is adequate for what is being developed, but that is their perspective. I have been down there for several DAB meetings and some other meetings, and that has been their ongoing position. But for this development there is a sewer line that runs right through the middle of it. Public water is available to be extended, so with respect to this particular request, staff feels like there are appropriate facilities there."

WARNER "Okay."

MICHAELIS "Are there any further questions of staff?"

HENTZEN "Dale, would you point out Seneca Street on that map? Maybe that was what you were laughing about, but the staff report says 'west of Seneca'. This is east of Seneca."

MILLER "It is east of Seneca. That is a typo."

MICHAELIS "Are there any further questions of staff?"

MARNELL "Yes. I think it is labeled as Laclede Street going north to 47th Street. Is that an existing street or is that to be added?"

MILLER "Well, it is there today as a gravel street and I don't want to take words out of the applicant's mouth, but I think at the meeting they indicated that if this is approved, they will pave that, but it is there today."

MARNELL "Okay, thank you."

LOPEZ "Dale, you said there had been a couple of meetings already held. What has been the outcome of those meetings?"

MILLER "At the one meeting that I attended that was part of the Southside Planning area, it was very obvious that the citizens that attended that meeting were not interested in seeing any more mobile home parks, the ones that spoke. Now, I didn't go to the one that the applicants had by themselves and the DAB meeting. Mr. Blake was there, maybe he could say it better than I can."

BLAKE "That is a good question. I went to three meetings and there was opposition from not only inside the park, but outside the park."

LOPEZ "Opposition from outside the park?"

BLAKE "I mean the tenants themselves and the residents outside."

MICHAELIS "Are there any further questions of Mr. Miller? Thank you, Mr. Miller. May we hear from the applicant?"

TERRY SMYTHE "I am with the Baughman Company, here on behalf of the applicant. I want to point out a few things, and we have a rendering up here. It is the same site plan that you have in front of you, just in color and maybe a little clearer as to what we are doing. When we first started doing this project back in November or December, we met with staff, sat down with them and came to an agreement as to what we were going to do, design-wise, on the park. If you look at the mobile home Code, there are certain criteria about how wide streets can be and should be—29 feet; 31 feet; 35 feet, depending upon where you park.

We agreed on the site plan to reach all of the maximums, so we have the widest streets that the Code allows, basically. We've got two parking stalls per lot. Each lot is 5,000 square feet. We did have a number of meetings with the homeowners and we are on record as saying that we will pave Laclede Street up to 47th Street to make this work. It is vital to it. We agreed to dedicate the additional half street right-of-way for 48th Street. We do have some concern and expressed that, that we don't want this development to cause 48th Street to be paved because we don't have any access to 48th Street. We want to have access to Laclede and we don't want to put a financial hardship to the people to the north. I think they are getting by with that drive they have out there today, and quite frankly you saw the photographs—it looks pretty scenic down there with all of the trees on both sides of the drive. So we didn't want to create a hardship for them and we don't want to be the cause of making that street to be paved.

Anyway, the site plan was agreed upon back in December when we refilled this case and was going to have the first hearing. If you look at where we have the landscaping, the buffers, that kind of stuff, we think we have met the guidelines for the Manufactured Housing Code. If you look to the east, we are abutting a small railroad and some industrial areas to our north. We have some existing hedgerows that are here along the street. In addition, if this street ever goes in, we will plant these additional buffers both north and south. So, I think we have done a pretty good job, or the best job we can to buffer future uses around there on the site.

We did commission a traffic study because there were some concerns from the homeowners' out there whether we were going to generate way too much traffic compared to single-family stick-built houses. The consultant basically agreed that what we are doing would generate less traffic generally with it has with single-family, and that no improvements would be needed along 47th Street or Seneca. I think it is about 5.2 trips per day per unit, which is well in keeping with single-family, actually probably the low end of the single-family trip generation.

We have had a lot of meetings with the homeowners' down in this area and they have been very polite, very vocal, and very opinionated. Quite frankly, that is what this is all about. We don't discourage that at all. We think there is a demand for mobile home zoning, particularly down in this area as well as west and east. You had a case 3 to 4 months ago on the east side of an expansion of one. We are expanding one down here because we think there is a need for it with the Base employees and with the aircraft companies down here.

We also think that according to the planning study done a number of years ago and modified at the start of this case, that study came to the conclusion that there was only about a year's worth of mobile home zoning left. Some of you that are familiar with the development process, by the time I rezone, plat, design and construct, it is almost a year's worth of time before I get it in the ground and ready to be built upon. So I don't think that we are that far ahead of the curve. I think we are right on line with the demand for it. We do believe that there is a demand for it down here.

The other thing is that ARC is a large, large developer of these kinds of areas. In the past, they have come in and started buying these areas out and improving these things. There are certain rights; you can't just kick somebody out overnight. But they have started cleaning up a lot of these areas with previous owners and they want to expand this because they see that it is a market down here. The area and the residents have kind of stated through the reports that they don't believe that there should be any development. They want their infrastructure fixed. Other than drainage, I am not aware of any other discussion going on, and I think that even some of the drainage concerns, as flat as that part of town is, gives you an indication why a lot of stick-built houses aren't popular down there. It is very difficult. The streets are designed in that neck of the woods to handle a lot of the drainage. There is no drainage. You can't put it in a pipe because it doesn't go anywhere. So we feel that the infrastructure is plenty down here to handle this 129 more units.

This is affordable housing. These are houses that are in the \$40,000 to \$60,000 range. I am not too sure that there are too many builders that could build in that area and make a profit. Thirty to forty years ago, it was a whole different scheme. Now days, these are built to a much higher standard. They are truly the affordable housing, the starter homes in the country, quite frankly. If you look at some of the major suppliers of homes, the

manufacturing industry is probably one of the biggest industries in the country for providing those kinds of affordable housing.

We feel that this is an expansion of the existing mobile home out there. The study had previously indicated that there were certain areas that they thought that would expand in the future. This was a study done in 1997, I believe. We think this is a good one. We think this owner has the financial backing to do it right, to raise the bar so that some of the smaller 'mom and pop' parks go out of business. Those are the ones I think we have a lot of problems with. I think these guys will really back up what they are saying financially for the most part. With that, I will turn it over to the owner's representative. He can kind of go into some more details about specifics in terms of the parks themselves and what they are as a company. I will stand for questions if you have any."

MICHAELIS "Do you want him to use the rest of your 10 minutes, is that what you want?"

SMYTHE "Yes."

STAN LAWRENCE "I represent ARC. We own several communities here in Wichita. One of the big concerns when you ask for mobile home zoning is what happens to the value of the surrounding properties. That is a legitimate concern in our opinion. A lot of the neighbors have expressed that concern and have been very vocal about it, but yet very courteous, if you will. The Planning staff has been good to work with. We know their position on it, and yet they have been very professional, too. We do appreciate that.

In the report that the Director put out concerning a report that was addressed by Tom Byrne in the last meeting; he talked about the North Carolina and Alabama reports, and quite honestly, I had not read them. I still have them and I still haven't read them. I really couldn't care less what is going on in Alabama or North Carolina.

The Director's report does, however, address some issues that I want to just briefly mention. No. 1, which is on the last page of his report, he talks about location whether manufactured homes will depreciate depends on No. 1, location. We agree with that wholeheartedly. We feel like our average home in here will be \$40,000 to \$50,000 range. At least \$40,000. When you take that and add maybe \$15,000 for the lot, which we own the lot, you are looking at the equivalent of about \$55,000.

We pulled 20 properties around us that had appraisals on them and got the evaluation. The lowest one we could find, and that is the one we want you to hear, was \$25,200. The highest of the 20 we pulled was \$55,000. I would say that the average was more in the low to mid \$40,000 range. So we feel like we are comparable with the neighborhood.

The second item of concern on depreciation, if you will, on manufactured homes was the quality of the materials. When you talk about pre-HUD homes \$1,975. Quite honestly, they are pretty big piles of junk. The new ones are now increasing in size, amenities and quality also. On No. 3, they talk about the tie-down versus foundations. They say tie-down or not and I think that is what they are saying. When you go to the back table and it kind of surprised me, too, they did some appreciation comparisons on the average value of the units in a community versus outside of the community, and that typically means in the community tied down or outside on a single-family owned lot on a foundation. The average value in the community actually increased at a larger rate than the ones that didn't. So that kind of surprised me on that one.

Item No. 4, it talks about whether improvements or additions can be added to the homes—we have to approve all additions, obviously, before anything can occur there. No. 5 is whether the home has been well maintained. I think this goes with traditional site-built or mobile homes or manufactured homes, or even the trailers, if you will. Pride of ownership has to go and some people elect not to do that. Mr. Chair, may I have another minute, please?"

MOTION: That the speaker's time be extended 1 minute.

WARREN moved, **MCKAY** seconded the motion.

LAWRENCE "Our effort is to encourage the homeowner's to keep their properties well-maintained. If they don't, we give them notification, and if we don't get cooperation, we take it step-by-step and even to the point of eviction.

On our green space, the Code calls for 8%, we have 16% open space, playgrounds, open areas for the children to play in, extensive landscaping and a clubhouse. So we think, overall that we are going to be a plus, and I know that we are going to have people here to speak in opposition to this. That is their choice, but we think this is going to be an addition to the neighborhood. Whether you own a home and put it on rented property, versus renting an apartment versus buying a home, I think that is a personal choice. Why one person picks us, if you will, versus somebody else, that is a personal choice. We have a good market here and our commitment to the

community is to continue to try improve the communities that we have. We are not perfect; we are not batting 100%, but we continue to upgrade our sewers, our waters and our landscaping and try to keep them better and run better operations. That is about all I have. Does anybody have any questions?"

BLAKE "I have a question because we have parks in the south end of town, and I am going to make this nice and brief. Sunday after church, I went for a drive. I found 800 empty lots in the south end of town that aren't full, including some in your park. I went to several parks. There were just about as many empty lots in the parks as there were homes for sale. Do you have a lot of homes in the other parks that are for sale?"

LAWRENCE "I will give you the total of all of our 11 communities in the Wichita area. I will exclude Douglas, Kansas. We have approximately 150 vacants right now. Six months ago, we had 230. Quite honestly, the manufactured home market is in a little bit of a downturn because of some financing that occurred that should not have occurred nationwide. Even under those conditions, our communities are still, at a slower rate, but they are still filling up."

BLAKE "Another question. While I was driving around, I noticed that you had one over on MacArthur, the old Silver Spur Mobile Home Park. You have done an excellent job there and I am trying to keep an open mind about this whole situation here, and trying to be fair to you as the applicant. You have done a good job over there in that area. But the buffering around that area is a lot different than this area right here. Here, you are in the middle of residential."

LAWRENCE "I understand. On Twin Oaks, the old Silver Spur, we have some open area to the east and a baseball diamond behind us, if you will, and then mobile homes. We are kind of surrounded by non-site built homes. I agree with you on that. We typically, as a company, do not go out and buy open land and then try to develop it. This particular land with El Caudillo came with the purchase and it is a natural development, we feel like, to go forward with it. If we don't get our zoning, then we will put it up for sale. I don't know what we will sell it for, but whatever. But we don't typically go out and do that. We feel like, with the landscaping and the level of our homes price-wise, it will be coming into it, which will be greater than what the existing is, we feel like we will compliment the neighborhood. Now, I know that the neighbors are probably going to get up here and probably say that they don't agree with that, but we feel like that will be the case."

Many of our homes, to give you just a couple of quick examples, Ledell Manor, out towards the Goddard area, it is on dirt streets, which we will be coming back on, asking for some re-zoning extension there in a few weeks, so we can get those streets paved and do some upgrading, but in the last 60 days, we have put 3 homes in there that sold for \$60,000 to \$65,000 each. I am kind of surprised that people would move a home out there and put it on dirt roads, but they did. So we are not sure that the doublewides are not getting as affordable as they were at one time. You can get a double-wide now that costs \$80,000 and if you stick that on a lot, you are bumping \$100,000."

BLAKE "That is where I am going to come back to the next question. The area could have stick-built homes there if it was made available. They could build stick-built homes there instead of adding on to a mobile home park. Am I correct?"

LAWRENCE "That is correct. This particular land, I think, has been zoned single-family for about 20 years. I would have to verify that. We feel like, and I was going to use this as a rebuttal, but I will just say it now. We feel like we are going to actually help rejuvenate this neighborhood. We are going to spend \$2 million with local contractors, and when the community is completely full, we will have \$6 million worth of product in there that will be taxed, so that will increase the revenue. We also feel like we are going to be paving the streets at our cost and on a personal note, which makes me feel good, we are going to be helping out the church that is existing there by doing some parking for them. We haven't even announced that to them yet. It is just as a way to be a good neighbor."

So we think that we can provide non-discriminatory affordable housing. We have to, of course, watch it as far as affordability, also. Everything is going up in price, including us."

COULTER "Are you going to be making any changes to the existing park that you have there now?"

LAWRENCE "We are going to be re-doing the streets a little bit. That has been an older community. It is a quaint neighborhood. We have some clean up to do around on some of the land that is not even on our property, around the perimeter and everything. Anytime that we do a major expansion, quite honestly, I slip in an extra few bucks here and there and I get to go back and do other things to it."

COULTER "Are you doing any developments on the east or west side of town or on the north side?"

LAWRENCE "We have no land out east; we have no communities we are looking at; there are none for sale. Out west, towards Goddard, we have one called the Del Manor. It is a disgrace to our community. We have some land that came with that and we are going to go back in and ask for a zoning on that particular land. At that time we will be able to re-do our streets, put paved streets in, and do a considerable amount of upgrading on it. We have nothing up north, other than existing communities. We have a little bit of land between Twin Oaks, the old Silver Spur property, the Woodlands, which is about 5 acres. It is already zoned, so we are going to be developing that. We have had some problems with our Twin Oaks community. Some of you might have seen us when we made TV with that a while back. A lot of the water and sewer issues in there we had to go in and spend \$200,000 more to kind of get some of them updated."

OSBORNE-HOWES "I thought I heard you say that there was about one year left before...."

LAWRENCE "About a year and a half of manufactured house zoning, of which one of them is on I-235 and a large piece of property there. I don't know who owns it, but nothing is being done with it."

OSBORNE-HOWES "Where did you get the year and a half from?"

LAWRENCE "It was based on a rate, so many usages per year. I will let Terry answer that. He has the numbers on it."

SMYTHE "That was a study that the Planning Department generated. They generated the first one about 3 years ago and they updated it for this one. It was just strictly from there."

OSBORNE-HOWES "Did they agree with you on that?"

KROUT "I don't think so, but if you will take a recess, we will take a look at that."

OSBORNE-HOWES "If you could, because I am really curious."

LAWRENCE "We didn't totally agree with the first report. We felt like it contradicted certain parts of it back and forth. When you saw the usage and then you saw the number of acres and then you divided it up, we weren't sure that we agreed with the numbers."

SMYTHE "On my copy, at the bottom of Page 2, the original report in 1997, I think looked at the absorption rate and thought that there was only 14 acres or so per year being gobbled up. When they updated this report, at the bottom of Page 2, it says 'based upon their latest count, and assuming that the 42 acres a year is a valid consumption rate, and that 100 per cent occupancy exists, that this would result in a 1.4 year supply of MH development in the south side alone and a 4 year supply overall citywide'."

KROUT "But I think that didn't include pending zoning cases, some of which had been approved, and also other areas that in the 3 year old plan and in the update we identified as areas where we would support Manufactured Home zoning because it was the only practical category that was left. That is a little bit out of context, even if the number was correct."

MICHAELIS "How many people in the audience are wishing to speak on this item? Three. Okay. We are going to take a 10 minute break."

A short recess was taken here.

MICHAELIS "At this time, we will entertain any speakers from the audience. Is there anyone here wishing to speak in favor of this application? Seeing none, is there anyone here to speak in opposition? Please come forward."

PATRICIA BENDER "I work with the Sunflower Community Action. I live at 5135 South Hydraulic in Cedar Ridge Trailer Park. I moved in there as of February 2000. Since I have been in this trailer court, there are now 16 empty lots. There are over 10 homes that are up for sale. None of them are rental properties. When we moved in, we were under the assumption that things were going to go real smooth for us. Someone had mentioned about mobile home owners having a problem with finance companies. I am one of those. I am a single parent. Everyone kept saying that it was a choice of our own. Really, it is not a choice of our own about living where we want to live and where we want to be. I didn't want to be out on 47th Street South. I am a Certified Nurses' Aide-Home Health Aid. It takes me everywhere here in town."

The issue over this deal about improving this, or making it bigger, I do not agree with because of being in a mobile home park where 16 trailers are gone. Hearsay I have gotten through some people, they told me that the reason those lots were empty was because they had bought the homes at first, those homes were set on 1 year lot rent free. Now, I did not have that opportunity because my home was previously purchased by another owner and I

took over the payments on it. I don't have much more to say other than being a single parent in a park that does not have trailers in it now, I don't see that it needs to be improved or made larger and another park made."

BLAKE "Did you say you had problems financing this place?"

BENDER "When you say problems....it wasn't a problem, we didn't realize that we were with a finance company that did a lot of flipping of loans, etc., predatory lending."

BLAKE "And there is nobody that will help you now?"

BENDER "No one, now."

WARREN "Where did you say you lived now?"

BENDER "Cedar Ridge."

WARREN "And where is that located?"

BENDER "5135 South Hydraulic."

WARREN "Where would that be in relation to this?"

BENDER "I don't think it is on this map at all."

WARREN "So it is quite a distance away."

BENDER "It is right by the Turnpike."

WARREN "I guess my question is, are you saying to us that you are just more or less against any further manufactured home development, or are you against this particular development?"

BENDER "Describe development. It could be defined different ways."

WARREN "Development would be that they are going to go ahead and put 129 mobile homes on this. That would be the development."

BENDER "I don't agree with that."

WARREN "Specifically with this, or just in general."

BENDER "Just in general. I don't feel that the parks that are down there, and that was stated by Mr. Blake, he stated he had driven around and most of those parks down there do not have trailers in the lots or have trailers in the lots that are for sale."

WARREN "That answers my question."

MARNELL "Is your objection an economic one, that you don't think there is a market for mobile home lots, or is it that you think it has an effect on the value of your lot?"

BENDER "Actually, I also heard, somebody had stated about depreciation. I have been informed, as a mobile home owner that every year, my mobile home depreciates. With that statement that someone had made, I don't agree with that. I have been told by Repo Smart, Factory Outlet Homes and those types of people that every year your mobile home depreciates. So, I don't know."

MARNELL "I guess I was confused by your testimony as to whether the nature of it was directed at, whether it was like Mr. Warren asked us whether it was against mobile home parks in general or this specific one."

BENDER "I guess in general. "

MARNELL "You indicated that there were vacancies in the park where you were, and that appeared to be the opposition."

BENDER "Yes. I agree that if we are going to enlarge something that we need to take up the space that is there already before we decide to move anything else in. Are there any more questions?"

MICHAELIS "All right, thank you, Ma'am. Is there anyone else who wishes to speak in opposition?"

JACK LEE "I live at 642 West 48th Street South. I live directly across the street from where this proposed park is. You are voting on it today. I heard the high price of the homes in that area, and mine exceeds that price currently. I don't know what that will do to my property value once the mobile home park moves in.

I am glad to hear that you go out and look at these sites. I think that has alleviated my mind somewhat that you at least know what you are voting on. I thought maybe you looked at it just on paper and didn't actually see what you were voting on. I appreciate that.

This area is an unusual part of the city. It is a very rural-like area. If I would blindfold you and take you back there, you wouldn't know you were still in the city. You would think you were out in the country somewhere. It has a very rural atmosphere to it. I need to tell you that I don't personally have anything against mobile homes. I don't personally have anything against the people who are trying to develop this. I think what I look at is that we talk about affordable housing and mobile homes seem to be the answer to the city's affordable housing problem. Maybe the city is not addressing the needs of their citizens with affordable housing, if they have to go to this.

It is also my opinion that if you approve that rectangular area there for mobile home expansion, you might as well approve the rest of that field there, too. Nothing else is going to go in there. I am going to have to say that I don't think the guy that farms that area is currently farming it. He used to plant winter wheat there once in a while, but I don't think anything is there now. I think it is just an empty field. So you might as well go ahead and approve that also, because nothing else is going to go in there, is it?

My other question would be if in the area of the city if all of the places where mobile homes could go are gone in a year and a half, where are they going to start putting them then? So they are going to have to expand outside of the city. So I wonder if they would do that now instead of later?

I guess I am opposed to it because I would be opposed to anything going into that field, not necessarily just manufactured housing. Just anything. It is an unusual part of the city, and I find a lot of peace and serenity back there. It is off the beaten path. It took Dominos Pizza weeks to find me. Once you turn off on Laclede, it looks like the street dead-ends into the church parking lot. It doesn't look like it goes any further. It is just a nice little peaceful area. I would just like for you to deny the application and preserve my neighborhood in its quiet, uncluttered space as it is. Thank you."

BLAKE "Where is your house located on that map?"

LEE "It is right next to the church, wherever the church is."

BLAKE "Okay, I know where it is."

LEE "Okay. I have an acre and a half down there."

COULTER "Sir, you mentioned that your house was valued more than they had said. Could you tell us approximately how much your house is worth?"

LEE "I had it re-appraised two years ago for refinancing purposes. It was \$69,000."

OSBORNE-HOWES "You said you were opposed to anything going in there. Single-family homes could go in there now. Would you be opposed to that?"

LEE "I would think so."

OSBORNE-HOWES "That is by right."

LEE "You could put a park in there for me and I wouldn't be opposed to that, I wouldn't think."

OSBORNE-HOWES "Okay. I'll see what I can do."

BLAKE "One more question. What would you prefer, mobile home parks or stick-built houses? Take your choice."

MICHAELIS "I don't know that that is a relative question."

LEE "If 129 would go in that red rectangle, how many are going to go in that area, that other space? Because that is what is going to go in there. So if we are having trouble with infrastructure now, what happens when another 129 or 150 go in there? What is that going to do to Seneca? You might as well go ahead and re-name 47th Street

to what it is, the 47th Street Speedway. That road is terrible these days. There are tractor-trailers there now, and it is very cluttered. It is just going to be more so down there."

MICHAELIS "Are there any further questions of Mr. Lee? Thank you, sir. Is there anyone else wishing to speak in opposition?"

DONNAH TAYLOR "Hi. I have a house down on south Hydraulic and another house up by Lakeshore. Now, I lived through a tornado that took trailers that left pieces in my yard. It would have been the same as a house being hit, but a trailer can go a little farther.

We have enough manufactured homes. I enjoyed talking to these gentlemen who are doing this, but we have enough manufactured homes in the south. I built a house down on South Hydraulic, and if I had known what I know now, I would not have done it. I would have moved out west. I happen to like to live down on the south end. We don't need any more mobile home parks. If you would put a few west, put a few east, and equal it out. We have probably 80% of the mobile home parks. I am told...just like someone else said 'what else would you like there?', well; people don't want to invest in stick-built homes when they are next to mobile homes. Our businesses aren't growing down there.

I have talked to some of the gentlemen, and they said 'well...but'. If you don't help us, and we have already gone through one tornado that took out a lot of houses. They are being rebuilt and if you don't help us, we are going to be back into the same place. You go down where they are wanting to build, that was almost totally taken out by the tornado. It is cleaned up and they are making improvements. If you do not help us, what are we going to do? Our schools are going to be overcrowded. They say you have two adults and two children for each trailer. Our schools average 25 per classroom where they will be going in. Truesdale is getting nothing from the school bill. They are going to get air conditioning, and that is it. The school they are going into has a class size of 25. You stick 2 children per piece, and they are not all going into the grade school...you figure it out. The school is not getting anything but air conditioning.

The one school that is going to be rebuilt is up on Seneca. It will be enlarged. That is particularly all they are going to do for our schools down south. So now, if you can't help us, make sure that you at least help us rebuild the south end. We don't need this. Thank you."

MICHAELIS "Any questions of Ms. Taylor? Thank you, ma'am. Next speaker."

DAVID DENNIS " My Mother owns 903 and 907 West 47th Street South. We currently back up to the last part of El Caudillo. That is the back part of our property. I have some pictures that I have taken around, but I didn't want to make 20 copies. I don't know how that is set up."

KROUT "We can pass them around."

DENNIS "Well, they are in different sections. I can leave them and maybe they can copy them. Coming in here as a citizen, we are kind of at a disadvantage because we don't know your system and procedures here. I will just go ahead with the little bit I have. I will tell you what this is about.

I also went around to the different parks around there to see how many were vacant. We do have a lot of vacancies in the mobile home parks that are there. There are a lot of them that are for sale. A lot of them have been repossessed. The highest amount I have seen since we owned the property in 1969. The State is also doing an investigation on the predatory lending practices that some of these mobile home dealers have been using. That is an on-going thing right now.

Some of the parks are not bad. El Caudillo behind me has turned out to be not too bad of a park. They have some trees in there so that the people can get some shade. I will say that the history of it, until recently, has not changed, even though ARC bought it three years ago, it still pretty much stayed the same. We do have trouble with the kids coming out of the area into our neighborhoods breaking into the sheds, tearing up our fences, teasing animals. We used to have animals but I won't have them any more, due to that problem. The neighborhoods do get impacted. The higher the density you put in there, the more that density reaches out to the neighborhood to satisfy what it doesn't get in the mobile home park. We have been there since 1969, before El Caudillo originally went in.

That is what these pictures were about. They were showing you some of the estates—Pine Bay Estates on south Hydraulic; the new communities that went in on south Meridian and the difference on how they can be done. Some of them do look like neighborhoods and some of them look more like military encampments. If you presently look on here (indicating), you don't see any trees throughout the middle of that. I call that basically military encampment. The existing El Caudillo has trees that are now full-grown throughout the community that make it

look more like a neighborhood rather than a military encampment. A new one just went in on south Meridian. There are a few young trees planted into it or it would basically be treeless.

If you look at Pine Bay Estates pictures you can see that it looks like a neighborhood with lots of trees and diversity in the park. Right next door is a pretty good sized mobile home park that I drove through with a lot of empty lots, a lot of repos in there. I found one tree in the whole park. That was a newly planted tree. It had just been planted. As I said, the higher the density you have in the parks, the more it overspreads into our neighborhoods. We have had several neighborhood meetings with everybody being in opposition to it. We have not had anybody for it. On the picture there, the south 20 acres that you have there is being laid out right now for manufactured homes. That is what is coming up against the houses right here (indicating). That has recently been sold.

This week, we have had problems due to spring break and the kids being out of school of jumping our fences and the same old thing that we normally get when you get a number of kids. That has been going on this week. It seems like everybody gets to make money on it and our neighborhoods end up taking the impact and we end up taking it in the shorts because we are the ones who have to deal with this for another 50 or 100 years, however long this is going to be here. This is what we have to deal with. If this trend continues, I have talked with a number of people around there, I, as well as others, will be moving out of the area and to other parts of town. I don't know whether you have been given the studies or not that south end of town has 80 to 85% and with what is coming, we are getting 90% of all of the manufactured in the city. We need a little more diversity than what we are getting to keep our economy better in balance than just strictly the lower income people.

A lot of people wanted to be here today but due to it being spring break time, they didn't want to take off from work. I have a study that shows that since the 1970s, basically the south part of town has been ignored by the city. This is true. We had some development in the 50s and 60s, but since then, we have had nothing. They have been 30 years trying to get Hydraulic widened down there to handle the capacity of traffic that is on it. I see I am out of time. Can I have another minute or two?"

MOTION: That the speaker's time be extended 2 minutes.

MCKAY moved, **LOPEZ** seconded the motion, and it carried unanimously.

DENNIS "I wish we had a little better understanding of your process so we could participate in it. I have spent probably several hundred hours and lost \$500 to \$600 hours just in my wages alone, just researching and trying to find out what is going on in the neighborhood. I would ask that you people become more familiar with the neighborhoods that you are ruling on so that you understand what has been happening. It seems to me that this is pretty short form for you to really comprehend what is happening in an area of town unless you are getting more information than what I got.

A lot of our people down there are not highly educated so they are very intimidated by this process. It would be much more user friendly to them if some meetings could be held with you or the staff down in the areas of town that area being affected so that people would be comfortable. Many of them are so scared they will not even come down to City Hall. I am the only one here that can represent them. They are just too scared to make their opinions know.

I am not against manufactured homes. I just think the City needs to come up with a plan for it. I think that it is not as good as it sounds. I have talked to people in El Caudillo and they would like to keep it the same size. They don't want to expand it. Many of them, if they had it to do over, would not do mobile homes. They don't fully understand the repercussions of getting into it and then trying to get back out of it. I talked to people across the street from me that live in the little two-bedroom houses we have. Many of them were previous mobile home owners that got out and went into houses. So it is not as good of a deal as it sounds. I think we are kind of taking advantage of our lower income people by not offering them any other options besides this. Other than that, I have these pictures but I don't know how to distribute them around."

MICHAELIS "Sir, would you point out on the map where you live?"

DENNIS (Indicating) "Right there. This is the existing El Caudillo and our property backs up to it right here."

MICHAELIS "Okay. Are there any questions of the speaker? One thing I might just throw out. We need to defend our staff whenever we get a chance. The staff has recommended denial on this, and even the letters that we have, the indication is that the City is questioning all of this."

DENNIS "I was very pleased with that. I did attend all of the meetings and I thought they were doing a pretty good job now analyzing what we need. But that has been since the 1970s that this hasn't been done."

MICHAELIS "Are there any other people here wishing to speak in opposition to this case? Please come forward."

JOE TOBEY "I live at 2305 West 32nd Street South. I am a member of that church that is involved in this. We had a few questions; we have no denial about the park about the park or anything, but we would like to have the questions answered. ARC has explained a few of them already. I asked who is going to pave the street on Laclede going out to 47th Street and they said they would. We wanted to know if there were going to be any specials on that street like sewage or drainage. We would like to know if we would be contacted for that. Also, the size of the street. We have to have an idea how wide that street is going to be because we have been parking off to the side of it, in front of our church building. We need a little answer on that one."

Also, he answered our other question about helping us pave our parking lot off of the side of the street. That was about the only questions I had for the church at this time."

GAROFALO "Mr. Tobey, do you have, or does the church have a position on whether or not they would like to see this go in or not?"

TOBEY "Well, hearing the homeowners', it sounds like they really don't want to have it down there, but from our viewpoint, there would be more people for us to work on."

Laughter here.

MICHAELIS "Are there any other questions of the speaker? Thank you, sir. Is there anyone else wishing to speak on this item? "

EARL MCGAUL "I live at 708 Maple, and I am up here from Arkansas, and I never took public speaking, so I will have to make this speech short. I own a piece of property down on 648 47th Street South across from the wheat field. I have been forming that piece of ground down there, got a two-bedroom rental house and an acre of ground, and I have been using that for physical therapy for 20 years. It is getting now to where already there is traffic coming to and from Boeing, and businesses are picking up there on 47th Street. We've got Burger King, Emprise Bank and places going in, creating traffic. I have just been wondering, sometimes now I have a hard time getting out of there because there is a railroad track blocking the trains."

There are going to be 129 houses go in in front of my house and they are going to have two cars apiece. When I go down there and work all day and get hungry, how am I going to get home in time to eat supper, see?

Laughter again.

I'll tell you what, I've got every kind of wild life that you can think of down there. I have 5 foxes that run in one group. I have pheasant, quail, skunks, rabbits, and possums, whatever. It has been in the country for 20 years and I just kind of hate to see it change. With 129 new neighbors, I don't know whether I would get along with that many or not. Of course, they say they are going to build a pretty good fence. That might help some. That is all I have to say, thank you."

MICHAELIS "Are there any questions? Are there any further speakers? Okay. Mr. Lawrence, do you want to follow that?"

LAWRENCE "Earl, some of the comments you made, I take seriously, as far as the wildlife, etc. When you develop things you always think about those items. We do have a couple of detention ponds that are required, some open space and so maybe some of that area can still maintain some of that wildlife and maybe some of the area there to the east of us between the railroad tracks and Boeing's stuff, maybe we can do something there."

As far as the church's questions, anything involved with this project, we will accept the cost of that--no cost to the City or surrounding owners. We are looking for the street side right now. A 50-foot right-of-way? Okay. So as far as parking on the street, I am not sure. Marvin, you might have some input on that. We talked about, and we didn't discuss this with the church yet, but we will try to help them out maybe on the parking on the interior of their property."

A couple of things concerned me on some of the comments that were made.

We know that trailer parks are not welcome. We know that. Our commitment is to try to come back and put in something we are all proud of although we may not want manufactured housing as a group. That is our commitment. I haven't discussed this with my people as far as budget issues go, but I will go record to say that if a concrete fence was preferred by the board here as opposed to a 6-foot cedar or privacy fence, I would go along with that and commit my company to that."

On the marketing end of it, the lady spoke that at Cedar Ridge there are 16 empties and 10 for sales. Like I said, the market in general is down for manufactured homes. We are starting, just in the last few weeks to see a few extra sales come in. We think maybe it is coming back a little bit. There were some financing companies out there, and like I said, they did something that we were not associated with, but they worked on it nationwide. There is a gleaming going on in the finance industry right now, and hopefully some of those practices will go away. It makes all of us look bad."

MICHAELIS "Okay. I will bring it back to the Commission."

BARFIELD "I have a question of Dale. We have several letters here from people that are not in support of this. I just wonder, do we have any instructions from the DAB on this?"

MILLER "Well, the DAB met, but they didn't have a quorum, so there isn't an official comment from them."

MOTION: That the item be deferred back to District Advisory Board No. 4.

BLAKE moved.

MICHAELIS "I will make a comment, for what it is worth, I don't particularly agree with that because the history of the DABs meetings has not been the best, and when they do meet, we don't know that everybody is going to show up. We could send this back for another month and they show up and not have the meeting and we would be no further along. For whatever that is worth."

MARNELL "I am going to oppose that motion. In the first place, the DABs are advisory boards to the City Council. So while that is information that is presented to us, they are not pre-clearing for this Commission. I agree with your comments, so I will be voting against that motion."

BLAKE "I will withdraw that motion and make another motion. Not only is that detrimental to the neighborhood and the south end of town, it is also detrimental to the City of Wichita. According to Golden Rules No. 3, No. 5 and No. 8, we have opposition from the neighborhood residents; we have city responsibility to the citizens to be weighed, and we have the detrimental effect to nearby properties."

MOTION: That the request be denied.

BLAKE moved, **GAROFALO** seconded the motion.

WARREN "Before we really get into the consideration of that motion. We had a case before us whereby staff came down with recommendation on manufactured homes 6 weeks ago or 2 months ago, and we were pretty critical, I thought, of that report. Very, very critical. I am looking here at the recommendation and almost disbelieving it.

Item No. 1 in the recommendations for denial is that there are still considerable acreage that is already that is more suitable for this use. I don't think we have ever used that as a condition of approval or denial of zoning, say as it would relate to single-family housing. We never have said we are going to control the market because there are too many of these out there.

Item No. 2, says that manufactured home parks appreciate slower than other uses. I don't think that is a consideration of zoning. I don't think we ought to even consider those. I am very critical of staff for coming up with that kind of rationale.

No. 3 says that manufactured homes in parks also reduce the demand for larger stock of affordable older housing in the community that is in need of rehabilitation. That is right out of the Kremlin."

MILLER "What is he reading?"

WARREN "We are not here to control the market. That is what this rationale looks like to me. I am very, very, very critical of that kind of rationale for us to make a decision or for us to make a decision, for that matter. I am going to oppose the motion, but I would like to see some further discussion on it."

HENTZEN "I went down there to look at this and finally found it. The report says that the site plan submitted with this application appears to comply with Code requirements. Then, a little later on down below, on Page 3, it says 'after lengthy discussion, the consensus of those on the South Side Steering Committee in attendance was not to support any further manufactured housing or conventional housing development at this site or any other site in the area until adequate infrastructure is in place to accommodate the further development.

Now, if we are going to deny this, I think we have to find a reason to deny this. If the requirements that are set forth for a mobile home park are met by this applicant, how do we deny it? You are absolutely inviting an easy lawsuit. Now, if this Commission and this City is going to say 'no more mobile housing anywhere' or 'no more in this district', then say it. Don't try to confuse the issue by not saying it. I will tell you, if we take the idea that they can't use this land for anything, and that is what the dang thing says, then say it because you are going to be challenged on it."

MARNELL "I am also going to vote against the motion to deny this. I think the City does need affordable housing and I think this is one way to make it. If there are vacant lots in other mobile home parks, to me that is an economic issue and it really bothers me that those kinds of things keep coming up at this Commission and we try to pick winners and losers and make the marketplace decisions for people. I think that is inappropriate. This is land use and the question is whether or not it is appropriate land use. I will be voting against the denial."

MICHAELIS "I think I also will be voting against it for those particular reasons. It is not up to us to decide whether this is the right place to put it. It is a question of land use. If the land use issues have been met, that is what the decision has to be based on."

WARREN "Mr. Chair, I would like to just add that there hasn't been anybody, I don't think, on this Commission more vocal about the unfairness that I think does go on in the southwest part of our community. I think we have a flawed policy and we have a policy that is staff-generated and I think it is bad. That policy basically says that we will look at the manufactured home park only when the land has no other viable economic use, primarily they could have stick-built homes on it. That is a flawed policy. If we really get serious as a Commission and as a staff and as a community to spread the load of the manufactured homes around this city, then we will encourage some applications in the northeast and we will encourage some applications to be taken in the southeast and the northwest. We are not going to do that because staff has said we don't want them out there. We are more responsible for the concentration in the southwest than anybody else. I sympathize with those people and I disagree with our policy."

PLATT "I agree with the comments that have been made that we should not be making decisions based upon our perceived need or lack of need for a particular item. That is not our job any more than we should decide if there is a need for another used car lot in town or not. That isn't the question. That is a proper analysis. But this is a case of land use and we are asked to make a zoning change. Making a zoning change is within our prerogative. We have the right to decide if this land should be rezoned for manufactured housing or not. That is a very legitimate decision we can make and there is nothing flawed about a policy decision of that kind."

We have to consider the impact on the surrounding neighborhood and we have to consider the position of the neighbors in terms of whether or not this land use change is a proper land use change to make or not. After hearing the neighbors, I am quite happy to say that I am convinced that this would not be a wise move to support this motion."

BARFIELD "I am going to say that I agree with a lot of what I have heard here today from different people. First, to address Mr. Marnell's concern that the City does need affordable housing. I fully agree. But I don't agree that the south part of town is the only area we need affordable housing. We need affordable housing all over this City badly. Since I have been on this Commission I have been against clustering of any kind, and I stand against clustering today. This certainly appears to me that this is involving clustering manufactured housing in one area of the City. I am going to support the motion."

BLAKE "My motion reflects the motion that were the staff findings."

OSBORNE-HOWES "If staff could refresh my memory, I know that about a year or so ago they came up with a report that showed support of the expansion of some mobile home parks in certain areas. This, I take it, was not one of those areas. Correct?"

KROUT "Right."

GAROFALO "I just want to make a couple of comments. I am a little puzzled by Commissioner Warren because as I recall, and correct me if I am mistaken, Ray."

WARREN "I will."

Laughter here.

GAROFALO "I know you will. I think you were one of the most vocal Commissioners that argued on some past cases that the south end has had enough of the manufactured housing."

WARREN "Very definitely."

GAROFALO "So I am a little puzzled. But, at any rate, I would say that I will support the motion, I did second it, because of that reason. The south end has been 'pooped on' enough, as far as I am concerned, and I think there are detrimental effects from that. I disagree with the staff when they say that the 'impact of the proposed development on community facilities' that there is no impact identified. That point is in a lot of the reports, and I think there is an impact. There is an impact in the way of traffic and there is an impact on the schools as one of the speakers said. There is a great impact on the surrounding residential area, and there is an impact on the whole south end, for that matter, because you drive out that way and you go past mobile home park after mobile home park after mobile home park. At some point, I think we have to draw a line in the sand and say 'this is enough'."

MICHAELIS "I think, for those of us who have short memories—it wasn't more than a couple of months ago, I believe, that we sat here and approved a manufactured housing addition to an existing park in the northeast part of Wichita. So it doesn't always happen down there. I think, too, and I'm sure staff will correct me, but I think the reason staff supported it was that they felt like an extension to an existing mobile home park was the better alternative in that scenario. I am kind of wondering why that scenario doesn't follow here. If you look at this piece of property, I think we are looking at one of two things. We are looking at a manufactured housing area or we are looking at a field. That is probably the two things that are going to be there."

BLAKE "I read an article in the paper that said County Commissioner Ben Sciortino called homeownership one key element to slow down the deterioration of these neighborhoods. If someone owns a house instead of renting, they will take pride in it and they will keep it up better, he said."

OSBORNE-HOWES "I would like to ask staff one more question. I am still not sure how I will vote. You had supported the extension of some mobile home parks, but not this one. Can you, based on the comments everyone is making, can you help me with that?"

KROUT "It was an evaluation of the specific land uses surrounding each of those sites. Most of those sites that were surrounding two or more sides by manufactured housing were better buffered from other properties by freeways, and other types of barriers—official barriers and distance barriers as suggested in the Comprehensive Plan. This is an area that we feel has potential to become a single-family neighborhood. There is single-family construction to the north and in other locations in the south area. In fact, the housing market has picked up in this part of the community, and I don't think it has to be just a field or a manufactured home park. There is no evidence on the table to say that."

OSBORNE-HOWES "Thank you."

WARREN "I would like to respond, just a little bit, to Commissioner Garofalo's comments. He is right. I have been in opposition to all of these mobile homes going down there, but we are the ones that have provided an environment where it is a lot easier to get an application approved in that part of town than it is in any other part of town. So in that policy that we have, we have encouraged those applications in that area. Even though I disagree with that, I do not think it is our right to ignore an industry. I think they do have a right to expand their facility, and if we decide that we are going to make it easy down there, then that is what is going to happen. I think we have an obligation to the manufactured home industry to allow them to grow the same as we do the stick-built industry and the same as we do light or heavy commercial. I don't think we can deny them the right to expand, but I do think we need the policy changed so that they have as much opportunity in other areas as they have here."

MICHAELIS "The other thing I think we need to keep in mind is that we can't let our prejudices against manufactured housing come into these decisions. Twenty-eight years ago, I lived in El Caudillo. It was a great place to live. It was a very nice, well-kept park. I have personally said this before—I think manufactured housing is a very, very vital part of our community. It is something we are going to have to deal with and we need to deal with it. If we are prejudiced to it, then that is fine, but that prejudice should not come into play in making this kind of a decision."

BLAKE "I am not prejudiced. I want you to know that. The reason I am against this is that since we had the tornado in 1999, I have seen people build between \$100,00 and \$250,000 homes down on south Seneca. That is why."

BARFIELD "Let me say again, and I agree Commissioner Warren, but I do think what happens is if we continue to sit here and only approve these for the southern part of the City, then we are not, in any way, encouraging the City nor the developers to look outside the southern part of the City. I think if we are going to accept the fact that it is us that is contributing to this problem and we continue to approve these for just one part of the City, we are part of the problem, not part of the solution."

MARNELL "I would like to make a comment in regard to specifically what Mr. Barfield said. That makes it appear as though this Commission is sitting up here saying that we will only approve mobile home parks in the south part of town. These are economic decisions from the marketplace and we aren't telling developers where to buy land where to bring the projects forward for zoning if zoning is necessary. Those are marketplace decisions being made that then come forth. I would say, in the case of the landowner here, if they have a better use for that land that gives them higher value, that is what they would be here trying to do here today. We aren't, as a Commission, setting out saying that we, in fact, are only going to approve mobile home parks in the south part of town. That is just not the case."

MOTION: That the question be called.

MCKAY moved, **COULTER** seconded the motion, and it carried unanimously.

VOTE ON THE ORIGINAL MOTION: The motion failed with 6 votes in favor (Osborne-Howes, Platt, Blake, Coulter, Garofalo and Barfield) and 8 in opposition (Warren, Johnson, Michaelis, Warner, McKay, Marnell, Hentzen and Lopez).

MICHAELIS "I would entertain another motion."

MOTION: I move that we recommend to the governing body that the request be approved, subject to the following:

1. The development will be in conformance with the submitted site plan.
2. The applicant will pave Laclede Street to 47th Street and a possible left turn lane on 47th Street to Laclede.
3. A concrete screening wall will be provided.

MARNELL moved, **WARREN** seconded the motion, and it carried with 8 votes in favor (Warren, Johnson, Michaelis, Warner, McKay, Marnell, Hentzen and Lopez) and 6 in opposition (Osborne-Howes, Platt, Blake, Coulter, Garofalo, and Barfield).

7a. Case No. CUP2000-54 DP-08 Amendment #9 – McFadden Properties, Inc., c/o John McFadden (owner) Robert W. Kaplan (agent) request an amendment to the University Garden Community Unit Plan to allow indoor storage of construction and equipment and vehicles as a permitted use on Parcel 2; and

7b. Case No. ZON2000-00056 - McFadden Properties, Inc., c/o John McFadden (owner) Robert W. Kaplan (agent) request zone change from "LC" Limited Commercial to "GC: General Commercial, on property described as:

A portion of Parcel 2 that is 7,700 square feet in size, more legally described as:

A tract of ground described as follows: Beginning at a point located 58 feet, more or less, west and 263 feet, more or less north of the eastern-most southeast corner of Lot 5 University Gardens 2nd Addition, Wichita, Kansas; thence north 70 feet; thence west, 110 feet; thence south, 70 feet; thence east, 100 feet to point of beginning. Generally located on the northeast corner of 21st Street North and Oliver.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

The applicant is proposing to rezone Parcel 2 from "LC" Limited Commercial to "GC" General Commercial and to amend DP-8 University Gardens Community Unit Plan to allow Parcel 2 to be used as a contractor's storage yard.

A contractor's storage yard is part of the use classification of "construction sales and services" in the Unified Zoning Code. Construction sales and service requires "GC" rather than "LC" zoning unless it is primarily a retail rather than wholesale or service use, and it complies with outdoor display and storage requirements of "LC" (Art. III, Sec. III-D.6.bb.). As proposed by the applicant, the use does not meet the criteria of being primarily a retail business. The nature of the proposed use is that of a warehouse/storage facility for a construction firm.

Parcel 2, the application area, is located at the northeast corner of DP-8 University Gardens along Pinecrest. Currently, there is an existing building on the southern portion of Parcel 2, owned by the applicant. Breakthrough Ministries Church (tenant), Harrold E. Jones Attorney's Office (tenant), and Pop's Laundromat occupy the existing building.

The applicant is seeking to expand this building, or build a second building, on the northern portion of the parcel. It would be used for the storage of construction equipment, materials and vehicles. It is our understanding that the metal building would be approximately 80X100 square feet in size, and with an open area of approximately 80 feet between the building and the property line. It would open toward the west (Storage USA). The applicant would build a brick wall 10 feet back from the east property line along Pinecrest, connecting with the existing wall on the north property line of the shopping center, and connecting with the existing buildings. The area between the wall and the property line would be landscaped.

University Gardens was once the location of a Dillon's, K-Mart, Revco, and other small tenants in the main building of the shopping center. The Dillon's site has been converted to a multi-tenant structure for entrepreneurs and start-up businesses, currently including Oliver's Collectibles, Designers Connection, and Via-Net Transcriptions. The K-Mart building was converted to Storage USA Self-Storage (climate-controlled indoor storage only).

The existing building on Parcel 2, was originally a Kinko's, then changed first to Olin Mills and subsequently to Dollar General. A dentist's office is located near the intersection of 21st and Oliver. Two fast-food restaurants are located near the intersection of 21st and Pinecrest (south of Parcel 2, the application area). These are a Taco Tico and Cora's Home style Cooking (formerly Sonic).

The types of land uses in the surrounding area varies in each direction, with a wide mix of uses; however, all are of relatively lower zoning intensity than that requested by the rezoning. Wichita State University is located to the southwest of 21st and Oliver, with the golf course being the nearest use to the shopping center, and providing a park-like atmosphere to the area. The baseball complex is west of the golf course. A large-lot residential development is located to the northwest.

Immediately north of the shopping center is the Tall Oaks Apartment Complex. The tennis courts and swimming pool are immediately adjacent to the proposed location of the building that would be used for construction vehicles, equipment and supplies. A single-family subdivision, Prairie Hills, is located north of Tall Oaks.

Located to the northeast of Parcel 2 there is a 32-unit senior housing project, Pinecrest Senior Residences, and an eight-unit complex for group housing, Pinecrest Court. This is also the future site for Breakthrough Ministries Church which is currently a tenant in the existing building on Parcel 2 (the application area). There is also a cell tower to the northeast. Immediately east is another warehouse, self-service storage.

There are a large variety of uses to the south and southeast also, including Unity Church and River Community Church on the southeast corner of 21st and Oliver, some offices and small apartment units. Three other uses merit mentioning. These are a convalescent care facility (Integrated Health Systems), the Cerebral Palsy Research Foundation of Kansas, and the Timbers, which offers housing for handicapped persons and has a large number of residents who are confined to wheelchairs. These residents utilize the sidewalks along 21st to travel to shopping areas for their shopping needs.

CASE HISTORY: DP-8 University Gardens is one of the oldest C.U.P.s in Wichita, dating to July 6, 1965. Most recently, Amendment #8 approved by MAPC on July 30, 1998, allowed the K-Mart facility to be converted to an indoor storage facility, with the underlying zoning remaining "LC" Limited Commercial. Amendment #7, approved March 4, 1986, by the Wichita City Council removed the fast-food prohibition from Parcel 10, to the southwest of the Sonic and Taco Tico sites.

ADJACENT ZONING AND LAND USE:

NORTH: "B"	Tall Oaks Apartments, single-family
EAST: "LC", "MF-29"	Self-storage, cell tower, vacant (future church), Pinecrest Senior Residences, Pinecrest Court
SOUTH: "SF-6", "LC", "GO"	Churches, convalescent care facility, Cerebral Palsy Research Foundation of Kansas, group home (the Timbers), small commercial uses
WEST: "U", "SF-6"	Golf course, single-family residences

PUBLIC SERVICES: Transportation access is via 21st Street North, a five-lane arterial street. In 1997, average daily trips were 21,353. Traffic is projected to increase modestly to 26,302 daily trips in 2030. Other municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan shows the site as "commercial", and would be considered a neighborhood center, typically anchored by a supermarket with a variety of tenants.

The area is just beyond the boundary (southwest corner of 21st Street North and Oliver) of the neighborhood plan, "Northeast: Rediscovering Community" (November 1995). Recommended strategies for commerce and economic development of the Northeast Plan is to "retain or replace existing full service grocery and general retail goods stores within or close to the study area (CE-2), "establish a program of 'challenge grants' and other financial incentives to attract new investors to the area (CE-3), and assist community-based development ventures, cooperatives and other similar organizations which provide local community benefits, as resources permit (CE-4). In conformance with these strategies, the space previously occupied by Dillon's was converted to University Plaza in December 2000. It is oriented to start-up businesses and spearheaded by Air Capital Community Development Co., a subsidiary of the Kansas Southwest Jurisdiction of the Church of God in Christ. It is the result of a public/private partnership to accomplish the strategy of a mix of retail uses available to the neighborhood.

Strategy III.B.5 of Land Use-Commercial/Office goals/objectives in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan states "confine highway-oriented uses, outdoor sales and non-retail (emphasis added) commercial uses to highway corridors and established urban areas containing similar concentrations of uses. Similarly, the Commercial Locational Guideline #6 states "commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail (emphasis added) uses should be guided to other appropriate areas such as: the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.

The proposed "GC" General Commercial zoning and the proposed use of this property as a non-retail trade contractor's storage facility does not conform with any of the policies and strategies listed herein.

RECOMMENDATION: After the center had suffered a period of serious decline, marked by the loss of Dillon's, K-Mart, Revco, Sonic, Kinko's and other tenants, an aggressive and determined area by the church-based venture that has been supported by an active neighborhood association, Chisholm Creek Neighborhood Association, has resulted in a turnaround. The shopping center has been the subject of a major effort to redevelop it with sound mix of tenants that provide a variety of retail goods and services to the surrounding neighborhood. There are new tenants in University Plaza, and Storage USA is offering a good-quality mini-storage option to the general public. The efforts are resulting in an achievement of the strategies of the neighborhood plan.

Along the 21st Street corridor, there is virtually no "GC" General Commercial zoning within two miles of the proposed application area. The nearest patch of "GC" zoning is 1 and ½ mile to the west at Piatt (the old Heartspring site). There is no other "GC" zoning from I-35 to Rock Road. Clearly, the addition of a "GC" tract to allow this non-retail type of commercial use is out-of-character with the 21st Street corridor and contrary to the Comprehensive Plan guidelines that these uses should be guided to areas of similar use.

There have been neighborhood concerns expressed about the potential conflict of the use with the nearby residential areas. Residents of Prairie Hills and Beacon Hill travel on Pinecrest as a point of access to these subdivisions. The proposed location of the building is adjacent to the tennis courts and swimming pool for Tall Oaks. Any potential noise or other nuisance activities generated by the use would conflict with the enjoyment of this established recreation facility.

Finally, the presence of several unique residential facilities for specialized needs, including the Timbers, Pinecrest Senior Residences, Pinecrest Court (mentally ill residents) makes this a neighborhood that has accommodated a mix of housing types. It behooves the public to protect this mix by ensuring the type of commercial uses nearby encourages the continued operation of these residential facilities.

Based on these factors, the lack of conformance with the policies of 1999 Update to the Wichita-Sedgwick County Comprehensive Plan, and the information available prior to the public hearing, Staff recommends the application be Denied.

However, should MAPC decide to recommend approval Staff recommends the application be approved with the following conditions:

1. Parcel 2 shall be limited to the indoor storage of construction equipment, vehicles and materials. There shall be no outdoor storage of construction equipment, vehicles or materials of any kind permitted.
2. The building shall be located a minimum of 80 feet from the north property line. All overhead doors of the building shall be located on the west façade of the building.

3. A screening wall of brick materials that is six to eight feet in height shall be constructed to connect the existing termination of the screening wall on the north property line, extending 10 feet to the west of the east property line, and connecting to the front south street wall line of the building.
4. A landscaped street yard, with at least 1/3 of the required shade yard trees being evergreen, shall be established and maintained in the area between the screening wall and the east property line.
5. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
6. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
7. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is an unusually diverse mix of residential, commercial, institutional and park uses, however, there is no "GC" zoning or similar contractor's storage types of use in the vicinity or nearby.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as approved by the existing CUP, and the recent successes of adjacent parcels in DP-8, including the establishment of University Plaza and USA Storage, demonstrate this is a feasible use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The location of the contractor's storage in close proximity to the nearby residential areas has negative potential impact. Also, the shift to non-retail commercial uses could discourage addition of other retail uses in the center.
4. Length of time the property has remained vacant as zoned: The property has been occupied by the requested use during the past few, although it was not in conformance with the Unified Zoning Code. A number of violations have been noted by the neighborhood about the use.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed use is not in conformance with the goals/objectives and strategies of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan and it is in conflict with the Northeast plan to reestablish general retail uses in the neighborhood along the 21st Street corridor.
6. Impact of the proposed development on community facilities: The site will have a limited impact of increased traffic.
7. Opposition or support of neighborhood residents: After meeting with applicant, the members of the Chisholm Creek Neighborhood Association voted unanimously to oppose this request.

GOLTRY "This is a case that you heard previously; a case for construction sales and service on Parcel 2 of University Plaza, which is located at the northeast corner of 21st and Oliver.

The request is to rezone the property from 'LC' to 'GC' in order to put a contractor's storage yard type use, or a construction sales and service use on Parcel 2. I have three points that I want to make today and follow up. We had extensive testimony and discussion of this case previously, and I have three points I want to make on it today and then go through the findings.

The first point is construction sales and service as a use in the Zoning Code is not permitted in 'LC' due to its incompatibility with general retail convenience comparison shopping uses, which are intended for the 'LC' district. The appropriate locations for construction sales and service types of business instead would be located in areas where they are clustered in similar use. Some of the industrial areas along the auto-oriented heavier retail areas where we expect to have a concentration of non-retail types of commercial uses.

The second point. This case is a question of land use, not building type. In our previous discussion, there was a lot of bantering about of the term of 'garage'. If you recall that case, there was a lot of discussion like 'well, we just want to build a garage on the parcel'. Whether it is a garage or a residential-type structure, or a typical

commercial-type structure, that is not the focus of the question. It is a question of rezoning it from 'LC' to 'GC', so I would hope that we would focus on what the question is.

For an analogy, let's think of a transfer station. If a transfer station were located in a residential type use, and I know I am drawing a pretty extreme example, but as an extreme example to call your attention to that, if it were located in a residential type structure, would that make it an appropriate use in residential district? I think probably the answer would be 'not'. So I would call attention to the fact that we go back to looking at the use and not the type of structure.

The third point is that this is not a question of the ownership either. At the previous discussion, there was a lot of testimonial about that the user owned this property, so he wanted to put a building on it and this is what he wanted to do with it. Again, let's draw back to the point that--what we are looking at today--is a question of land use. Is this the appropriate land use?

I would suggest that approval of this request constitutes a form of spot zoning. As it was presented to you two weeks ago, it was a request for rezoning of the entire Parcel 2. I understand from Mr. Kaplan, who has discussed this with me previously, that today he is prepared to request only a 70' x 110' parcel of land that would sit underneath the building be rezoned from 'LC' to 'GC'. Truly a small area to be rezoned within an envelope of 'LC'. How would I make that assertion in terms of spot zoning? Well, I will take two things to draw your attention to it.

One is to contrast it with the zoning pattern of the area. Is 'GC' in conformance with the zoning pattern of the area? If you recall from the previous discussion two weeks prior, there was no other 'GC' zoning within one and a half miles of the property. It is an amazing situation where we have a stretch from I-135 to almost Rock Road with virtually no 'GC' uses along it, and we would request that you maintain that character of the corridor.

Secondly, would this request be in conformance with policies and plans that are in effect for the area? We will look at two of them to look. The first one is the Comprehensive Plan. The Comprehensive Plan would recommend this corner as a retail neighborhood center. That would not be construction sales and service, but it would be general retail shopping uses, etc. Then the 'Northeast: Rediscovering Community Plan', which was for the 21st Street Corridor, recommended to try to facilitate and enhance the re-establishment of a more vital retail presence along 21st Street.

It is for these reasons that we recommend denial. What was our recommendation based on? It was based on our findings, which we often maybe gloss over in our staff presentations. Our first finding was the zoning uses and character of the neighborhood. We pointed out that the surrounding area is an unusually diverse mix residential, commercial, institutional and park uses; however, there is no 'GC' zoning or similar contractor's storage uses in the vicinity nearby.

This is an area of diverse neighborhoods--Tall Oaks apartments are immediately to the north: (the building would face onto Pinecrest Street). If you look past Tall Oaks, it is the gateway to two residential single-family additions that are immediately north of Tall Oaks. There is a site to the northeast that has some multi-family type uses, a convalescent care facility, and then there is a site for a church that will be going in. Directly to the east is a tower. I am sure that some people would say that the presence of this tower would be evidence and support of 'GC' zoning, but I would submit to you that we allow towers in any zoning district within the City of Wichita. Directly to the east of the site are some mini-storage units that are on 'LC' property, and there is also a U-Store directly to the west, which is, again, on 'LC' property.

No. 2 on findings, 'the suitability of the subject property to uses to which it has been restricted', you can see that the building that is there already is being restricted to those types of uses. It has a place called Pop's Laundromat; it has some offices in it. It is meeting that.

No. 3 says 'the extent to which the removal of the restrictions will detrimentally affect nearby property', the location of the contractors' storage in close proximity to the nearby residential areas has a potential negative impact, particularly to Tall Oaks, Beacon Hill, Prairie Pines and the other residential neighborhoods to the north. Also, it has a potential negative affect to the multi-family uses and the institutional uses across the street to the south, The Timbers, etc.

No. 4, 'the length of time the property has remained vacant as zoned' only the back half of it is vacant, the front half is occupied. The actual use that has been located there has been in violation of the Zoning Code, and in addition to its violation of the Zoning Code it has been investigated for maintenance violations as well. But that is not a central part of this case.

And finally, No. 5, 'conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies', I have already gone over that earlier in my analysis of this as a potential for spot zoning.

No. 6, 'impact of the proposed development on community facilities', I do not believe that this would have an impact on increased traffic or community facilities. That is not the reason for us recommending denial.

The last finding, Item No. 7 'opposition or support of neighborhood residents', we do have an example here where the neighborhood has met, has had meetings about this and have determined overwhelmingly that they are in opposition to the requested zone change and CUP amendment that would go along with it. For those reasons, we have made that recommendation (to deny).

I know that we have both the applicant and the agent here to speak today as well as some members of the public, I believe, both in support and in opposition to the case. Questions?"

MICHAELIS "Are there any questions of staff?"

WARREN "Donna, it is pretty clear what your position is on this, and you are referring to 'GC' as not being within a mile and a half of this area. I suppose that is to infer that General Commercial doesn't belong here. But wouldn't you agree that General Commercial could be tailored so that it had no more effect than Light Commercial except for the specific use. We could put a Protective Overlay on that. Wouldn't you consider that it wouldn't any longer be the raw General Commercial, but instead would be modified?"

GOLTRY "I'm glad you asked me that question. I never get to answer questions. I stand up here and then everyone else gets to answer questions but me. I think that would constitute a contract zoning approach. What we have going on is we have, in our Zoning Code the way it is established, we set up where is the appropriate location for different types of zoning uses. And we have said that contractor's storage, unless it is primarily retail, belongs in the 'OW' 'IP' 'GC' 'LI' 'GI' districts; that it doesn't belong in 'LC'. So if we try to do an end-run, so to speak, with protective overlay conditions, basically what we are trying to do is circumvent the intent of the Zoning Code and it brings to my mind, are we trying to circumvent it on a case-by-case basis, and is that fair city-wide, or should we be looking at are we in error in the Zoning Code?"

WARREN "Isn't it possible, though, that the Zoning Code would be too rigid for every case, and that is why this case meets, to help modify that?"

GOLTRY "That is a question you will have to decide."

WARREN "Okay, and don't we do that with Conditional Use permits?"

GOLTRY "No."

WARREN "Sure we do. We modified the Code all of the time with Conditional Uses."

GOLTRY "Conditional Uses are different than protective overlays."

WARREN "Well....they accomplish the same purpose."

BARFIELD "Donna, is this proposal the same one we looked at before?"

GOLTRY "My understanding is that they intend to request only the building pad site for the rezoning request instead. Mr. Kaplan is shaking his head, so I am incorrect on that."

KAPLAN (From the audience) That's all."

GOLTRY "That's all. Okay. So it will be a modified request compared with last time."

OSBORNE-HOWES "Can you refresh my memory, why did we defer this?"

GOLTRY "One of the reasons was that you had instructed Mr. Kaplan to speak with the Chisholm Creek neighbors and also with the Tall Oaks Apartment complex to see if they could work out matters on that."

OSBORNE-HOWES "And they did, and what has happened as a result of that?"

GOLTRY "I don't believe that the communications have been fruitful, but I am not really 'in the know' on that."

OSBORNE-HOWES "Thank you."

GOLTRY "I think Mr. Kaplan and the neighbors who are here can speak to that better."

MICHAELIS "Wasn't there some discussion, too, about a free-standing building versus an extension?"

GOLTRY "Yes, and it is shown in the amended request as a building extension, not a free-standing building."

MICHAELIS "Okay. Are there any further questions of staff? Thank you, Ms. Goltry. Can we hear from the applicant?"

BOB KAPLAN "I am at 430 North Market. Donna is an advocate—no question about it. Let me tell you what the case is about—really about. First of all, do you have the handout I gave you? It is a three-page handout that I circulated. The first page is a drawing of what we propose, and that is an extension of the existing building. That extension is a 70-foot x 110-foot extension of the existing structure. The second page is the legal description, so if anyone sees fit to make a motion to recommend approval, the request for the 'GC' zoning is just for the legal that is set forth on that second page. The third page is an index of the Power Point that I am going to show you in a minute.

What happens here, if you really get down to the practicality of this thing and forget all of the theory for just a moment, and let's talk about Mr. McFadden is asking for. He runs a contracting business out of the building, which is located on the premises, which he owns. In the course of that contracting business, he uses work vehicles. Primarily pick-up trucks. Some lowboy trailers, small trailers, and a couple of small pieces of equipment. Small front-end loader, small Bobcat. He was bringing that equipment in at night, simply because you can't leave it on site and expect to find it in the same condition the next morning, in many instances. That resulted in some difficulties between Mr. McFadden and the Office of Central Inspection.

I worked with Mr. Sparkman. Now, we can play games and we can be cute with OCI, and we can bring to their attention that as Dale Miller said earlier on Item No. 5, and he is exactly right, I can park this stuff for 72 hours and it is not storage. And as long as I move it every three days, nobody is going to do anything about it, or can. Now, is that the proper way to handle it? Of course not. I told Mr. Sparkman and I told Mr. Schroeder that I would come in and ask for an amendment to the CUP so we can put that stuff indoors at night.

Ray Warren is exactly correct. The reason it is 'GC' is that it is not a contractor's storage yard. That is nonsense. It is called a contractor's storage yard because you have no provision in the Zoning Code to allow these work vehicles to be parked any place except under the Code section, which calls it 'contractor's sales and service'. Then, it can be done in Limited Commercial if it is a retail business. I was candid with staff and said this is not a retail business; this gentleman builds buildings and houses. So he can't go in the 'LC'; hence the 'GC'.

But, and we got hung up on this folks, last time, talking about General Commercial zoning. It is not much different from an overlay or a Conditional Use. This use is regulated by the Community Unit Plan. We have a specific provision in the Community Unit Plan, and it will limit this use solely to the indoor storage of Mr. MaFadden's vehicles. For no other use. A General Commercial is of absolutely no value to him, except that it appears to be the district in which Mr. Krout has determined that this use must lie and that is why the amendment to the Community Unit Plan.

There is one request for an amendment, and that is going to supercede the zoning, the General Commercial zoning does not allow him to do any General Commercial work of any kind. It allows him to bring his vehicles indoors. Donna didn't care for the term garage. Well, when we went to the DAB and I couldn't seem to make myself clear, George Rogers interceded and said 'the gentleman wants a garage to park his vehicles in at night, okay?' That is about what it amounts to as a practical matter.

As far as the neighborhood is concerned, I don't know. I called. I tried. I really tried. I don't know if Karen Harvey is here or not. She got mad at me. She said I twisted our conversation. I called her to apologize. If I did, in fact, it was certainly inadvertent and I asked her what it was I said that upset her. She wouldn't not return my phone calls. I left several phone calls and she will not talk to me, and I quit.

Mrs. James has been very courteous. Mrs. James has been very appreciative of the fact that we met with her association. Barbara James and I had very pleasant conversations, but Mrs. James said there was no point in having any further meetings on it. We are simply opposed to Mr. McFadden's operation at this location if it involves these vehicles.

All I want is 7,700 square feet of expanded building with the doors on the west side, so when he comes back at night, I don't have to play cute with OCI and say 'John, if you are going to leave your trailer here for 3 days, move it from the west side of the building to the east side of the building and then they can't do anything about it'. We haven't had those kinds of violation problems. I don't that the record is going to bear out what is being suggested here. But I don't want to do that. He wants to bring his vehicles in at night. It is not going to work for him to have his employees check in at his office and then have to journey someplace else to pick up their work pickups and their work vehicles. It is not practical.

A couple of weeks ago, Rev. Gilkey was commenting about 21st and Oliver, and we are part of that shopping center. He is having trouble keeping people there, keeping it filled up, and now it is being suggested that we ought to go someplace else and leave another vacant space in a 21st and Oliver center, which already apparently has its problems. It seems to me that the last thing we want to do is to have Mr. McFadden have to leave that area. If they don't have enough good, successful, solid people in there now, and now we want John to go someplace else. That is not what that center and that area needs. It needs to retain its businesses, including Mr. McFadden's.

We went out and cleaned this up. The area itself is clean; we graded it down. We brought in that dirt to build the building, but we graded it down, we leveled it out, we cleaned it up, removed the debris, mostly which wasn't ours. This should not bother any apartment resident. There is a large storage facility on either side of this building. The indoor storage keeps their trailers outdoors in what used to be the garden area. You have to go all the way to Looman Street before there are any residential; it is a block away. There is really no way they could be affected by this thing, in my opinion. Could I have another minute and a half or two minutes, please?"

MOTION: That the speaker's time be extended 2 minutes.

WARREN moved, **MCKAY** seconded the motion, and it carried unanimously.

Agent showed slides of the area here.

KAPLAN "You can stand up here, and Donna is good—she does her homework. She advocates. I have a lot of respect for Donna and we get along fine, but she makes this sound as if we are attempting to introduce a General Commercial use into an area which is all retail. We are asking for 'GC' because we have to, but the use is being governed by the Community Unit Plan and I am asking for a spot of 70 x 110 feet. Technically, spot zoning. Everybody abhors the term spot zoning. The spot zoning in this case is an enhancement. It allows us to expand the building. As I have shown in your little hand-out, we park our vehicles inside. We are not doing mechanical work, we are not doing body and fender work. We are not doing anything so horrible, folks. We simply don't want to leave the vehicles out on the lot and we are told that we ought not to do that.

So that is basically what it is about. I think it is a shame if this gets turned down and this gentleman is forced to another location. I don't know whether Rev. Gilkey would agree with me or not, but I don't think this center needs to drive people out. I think we need to keep them there."

HENTZEN "Mr. Kaplan, I assume that the applicant occupies the part in blue on this hand-out?"

KAPLAN "That is correct, Commissioner. Well, not all of it, but his office is in there and part of it is retail shops."

HENTZEN "And does he own it?"

KAPLAN "Yes."

HENTZEN "Okay. And his business is already in the blue building?"

KAPLAN "That is correct."

HENTZEN "DO you know how long he has been in there?"

KAPLAN "Six years."

HENTZEN "And apparently what he has been doing in that blue building has been okay, is that right?"

KAPLAN "He has an office use in a Limited Commercial district. Yes."

HENTZEN "And do I understand now that the application is to add the 770 feet to that building?"

KAPLAN "It is 7,700. That is correct. We will just go on to the north end of the building and we will go 70 feet to the north toward the apartment building and the width of the building, which is 110 feet and put doors on the west side."

HENTZEN "If he wasn't in there, or decided to move, and he wanted to expand that building to rent to someone in that 'LC' district, can he do that by right?"

KAPLAN "Yeah. There is plenty of capacity under the CUP. The footprint is not anywhere near capacity, as I recall."

HENTZEN "And so all we are talking about is should we allow him to use that to park his vehicles at night?"

KAPLAN "It is a use issue."

HENTZEN "I hate to see us change from 'LC' to 'GC'. It just doesn't make sense."

KAPLAN "I didn't take issue with Mr. Krout or the staff on that. They say that it is contractor's storage yard, because in addition to the pickups, he has trailers and a couple of pieces of small equipment. That is what mandated the 'GC', but Bud, you've got to remember, and I asked you all respectfully to remember that the CUP is going to control this use. It is for indoor storage of these vehicles only. It could be heavy industrial and the use wouldn't change. That is what I am having difficulty fathoming why this Commission, if it is, is so disturbed about the fact that it called 'GC'. I see the CUP as I would see any overlay or Conditional Use, as Ray put it. I think it is tailored to this particular use. I am having a very difficult time with this. Donna makes it sound like I really must be out of my mind to have made this application. I don't think so."

HENTZEN "I have heard that term, contractor's storage yard...."

PLATT "Mr. Chair, are we asking questions of the applicant, or are we debating with him?"

MICHAELIS "Well, we asked a question and it turned into discussion."

BARFIELD "Mr. Kaplan, on your slides, could you go back to where we are looking north? The north view from your location. You made mention, and I just wanted to correct you. You made mention of the fact that there are no residences until you get to Looman. I would like to point out, sir, that on the east side of that street there are some residences about half way down between your location and Looman."

KAPLAN "There is a complex, I don't know whether it is a senior citizen complex or what. There are no private family residences until you get down to Looman. There is a complex on the east side, yes. I don't mean to represent that. That is true, but I am talking about the single-family residences and the people who may be here in opposition."

OSBORNE-HOWES "You are asking for a zone change for the entire property?"

KAPLAN "No, ma'am."

OSBORNE-HOWES "The northern half of the building?"

KAPLAN "No, ma'am. For that description, which is on the second page of your hand-out, which is a 70 x 110-foot area simply to expand the building."

OSBORNE-HOWES "So the building itself would be zoned two different ways."

KAPLAN "The building would Limited Commercial, but the area of the addition would be under a 'GC'. That is correct."

OSBORNE-HOWES "Marvin, I just want to get clarification, can we do that?"

KROUT "Yes."

OSBORNE-HOWES "Okay, thank you."

KROUT "Just to clarify, in case there is a motion to approve. In the previous hearing, we talked with the applicant about the fact that there wouldn't just be vehicles stored, but there would be equipment and possibly materials stored. We are talking about the storage of vehicles, equipment and materials. I wouldn't want you to be cited by Central Inspection again if we were to approve. So, is that correct?"

KAPLAN "The citing by Central Inspection was for the parking of a vehicle on the premises. That would not have been sustained because there could have been no proof that it was there 72 hours. I do not think he wants material storage. I would have to call on Mr. McFadden. I think he wants his vehicles and some very light equipment. Am I correct, sir?"

McFADDEN (From the audience) "You are correct."

KROUT "Not materials then? No construction materials?"

MCFADDEN "No."

KROUT "Okay. That is not what was said the last time. And the motion would also include that the doors would have to be facing west. At the previous hearing, because you had a different plan with the separate building, you showed us some drawings that had some brick wainscoting and brick-screening wall. Is this building going to be treated in any particular way?"

KAPLAN "Marvin, I am willing, and I didn't ask Mr. McFadden's authority because instead of a separate building, and I didn't bring those artist's renderings, I am willing, if Mr. McFadden will permit me to do so, to accept all of the conditions that are set forth in the event that this is approved. I will buy into every one of those conditions including the screening wall, if you still want it. Is that acceptable?"

KROUT "Personally, I would accept to the Planning Commission that the screening wall is not necessary. There is nothing that you are going to be screening against because there is not outside storage. I didn't understand that. I was just wondering if you are suggesting anything in terms of the architecture of the building since it is going to be an expansion now of the existing building. That is all."

KAPLAN "We will make it compatible and we will make it architecturally compatible, and I guess to match the existing building. I think Mr. McFadden is willing to go 90% of the way with everybody on this thing. I don't know what else to do."

MICHAELIS "Are there any further questions of the applicant? Thank you, Mr. Kaplan. Is there anyone in the audience wishing to speak in favor of this application? I would like to remind you that if you have spoken previously on this and have some new information to offer, fine, but we don't need to re-hear the same things."

THOMAS H. JOHNSTON "I live at 2302 Gentry Drive. I think that it has been said, and to give you a different prospective, that they have showed today that they wanted just to add on to the building for what purpose that they have cited him. They gave him tickets because they want him to park his vehicles inside and he wants to build it. I think you ought to let him because Mr. McFadden is a businessman, not a fly-by-night guy. He is willing to do whatever you want him to do. You can't find too many businesses that will tell you that he will let you spend their money. You now that is correct, don't you? Most of them say 'I will do this, but I am not going to do that', but he says he will do whatever you want him to do. I would ask, suggest, that you approve it for him. Thank you."

MICHAELIS "Are there any questions of Mr. Johnston? Thank you. Is there anyone else wishing to speak in favor of this? Okay, in opposition?"

STEVE ROBERTS "I am President of the Chisholm Creek Neighborhood Association. I don't really want to take up your time; I know you have had a long day already. I won't go back through anything I went through before, I just want to state that we have looked over the revised plans that were presented last time around and that that has not changed the position of the Neighborhood Association. Thank you. Are there any questions?"

MICHAELIS "Are there questions? Thank you, sir. Is there anyone else wishing to speak in opposition to this?"

BARBARA JOHNS "I am a neighbor in the area. I spoke previously to this and in the packet previous to this were my feelings regarding this matter. So, I, too, will try not to elaborate on that. I am passing out an identical set of photos going both directions that I had taken of the McFadden property last December. Just to reiterate a little bit of my concern. The properties west of I-135 have all gone industrial, fallen by what I consider to be a domino effect. I am concerned of the property on 21st Street to the east of I-135 being maintained in a very nice and good condition.

The City has spent a lot of money getting rid of old buildings and poor uses of these properties and investing in some newer, more modern buildings along that stretch of highway up to the University and from the University on to Rock. I feel that all of those properties need to be maintained and kept up. I feel with the University continuing to expand and grow that they are interested in maintaining a nice area. My concern, frankly, is the domino effect. I do not know why he purchased the property initially if he was not planning to use it for retail space. Granted, he has an office there, but I have seen all kinds of equipment, not just small pick-ups, but I have seen large trucks, I have seen all sorts of different equipment come and go from the parking area of that property.

The Neighborhood Association has written to Mr. McFadden on numerous occasions, requesting that old trailers be removed, that large vehicles were not appropriate use of the property. Most of those were seemingly ignored. I do appreciate that over the last month it has been cleaned up and graded, like the attorney spoke.

We just allowed Climate Control storage to go in because the K-Mart property had set vacant for 3 years because the owners had had a long-term lease with K-Mart and they could make more money by maintaining that lease than they could by selling the property to somebody like Star Lumber or other retail businesses that wanted to get in there at that appropriate time. So they held on to the property and made K-Mart continue to pay them, even though K-Mart was not there. As a consequence, yes, we did grant that the climate control storage unit would go into that facility and we did support it because it would be a self-contained business that would be clean and that would have retail characteristics to it. In the meantime, the Dillon's property has been developed into those individual stores and they are trying to get started into revamping into retail. Granted Mr. McFadden has the Pop's Laundromat and Mr. Jones, an attorney's facility on his property, and I see that as an appropriate use. I see his business as an office being an appropriate, but as far as bringing vehicles in and out to store them overnight or for whatever length of time, I don't know. I don't think that is an appropriate use. I think that is just going to be one more domino.

The part of the domino I see is...Mr. Kaplan is referring to the storage on the one side and the storage on the other side and it is like, 'okay if we are going to have storage, we will let one more storage in. What difference does it make?' But I really would like to give that area and that shopping center an opportunity to redevelop and I feel like to go General Commercial with it is just going to be one more setback, even if it is limited to that one building.

The other thing I am wondering is, is the attorney for Tall Oak Apartments Curt Holmes present at this meeting?"

CURT HOLMS (From the audience) "I am."

JOHNS "Okay. I had gotten a call from Karen at Tall Oaks saying that you had had an emergency and I had requested a letter from her in case you were not able to present.

At any rate, on behalf of the neighborhood association and all of the neighbors that I have spoken with and on my own behalf, I recommend that we decline using this for storage. Thank you."

MICHAELIS "Are there any questions of the speaker? Thank you, ma'am. Is there anyone else wishing to speak in opposition to this?"

CURT HOLMS "I am at 205 East Central. I am an attorney for Tall Oaks. Karen Harvey could not be here but Tall Oak's position on this has not changed. They are opposed to any change. They are directly north of this as the picture has depicted. They are adjacent to this as their pool area and their tennis courts and they feel that this would be a detriment if this was changed and they remain opposed. Thank you."

MARNELL "I thought we heard the last time that this case was heard that they no longer have a pool there, and that in fact, they have built a storage facility themselves in that spot. Is my recollection wrong?"

HOLMS "That is correct. Unless I am wrong, there used to be a pool area on Tall Oaks. I don't know if the pictures depict where the storage unit is and where the pool is..."

MICHAELIS "She said they closed the pool and put the storage shed where the pool used to be."

MARNELL "They put a storage unit there to put equipment in, which is exactly what the applicant wants, which seems strange that you would oppose it, having the same use right across the wall."

HOLMS "That is my answer, they are opposed."

MICHAELIS "Are there any other speakers wishing to speak in opposition? Mr. Kaplan, you have two minutes."

KAPLAN "I would like to tell you a story, but I don't quite remember how it went about Abraham Lincoln representing the steamboat company or the railroad track. I don't know if anybody remembers, but they wanted to build a railroad bridge and the boats couldn't go up and down the river. He said 'if you can go across the river, why can't I go up and down the river?' Well, if you can storage on the east and you can have storage on the north, why can't I have a little teeny storage in the middle? I don't understand it.

We have large storage areas on east of it; large indoor storage on the west of it, storage behind it, as the Commissioner pointed out, but my 7,700 foot storage for my own facility, for my own garage doesn't work. Let me show you something. Here is the subject area right here (indicating). Now, the Commissioner did point out that there is a residential complex for senior citizens or something here, but other than this apartment area, this, of course is fenced, the residents who are complaining are clear up here, a block away. Really. That's it."

MICHAELIS "Any additional questions of the applicant?"

BARFIELD "Mr. Kaplan, the storage units that are to the east, do you know what the zoning is for that?"

KAPLAN "I think those are both in Limited Commercial, Commissioner. They are Limited Commercial, they are self-store indoor facilities, and I believe that they are both Limited Commercial. I know the one to the west is. This requires a General Commercial, that is true, because it is associated with Mr. McFadden's business, which is that of contractor. If he were not a contractor, he wouldn't have this issue."

BARFIELD "If you have storage on the east and have storage on the west, it appears to me that the zoning in those locations would accept those storage units. The zoning in the area that you are proposing does not."

KAPLAN "That is technically correct, Commissioner, but inside storage is inside storage. And whether it is a refrigerator and personal property or a boat or whatever it may be, or a truck, it is still behind closed doors, it is still under roof and I don't see the practical difference to a neighboring business or a neighboring house. It is all under roof and inside. It happens to be vehicles because he is a contractor, that's all. Maybe that is not a fair distinction, maybe you are right, but I say overlook the 'GC'; well, don't overlook it, but it is superceded just as you do an overlay with conditions. That is what you are doing here with a CUP. You are saying it can only be this one specific use and that controls."

MICHAELIS "I guess I will make a comment first and I am going to kind of back up to where I think Mr. Hentzen was going. I think it is out of frustration that he was making his comments. I share that frustration to the fact that we have to go to this extreme to allow somebody to improve a facility. I don't know if it is possible that the Advance Plans Committee that is looking at the zoning changes now, but it seems like there should be some kind of Administrative Adjustment available, or some mechanism to allow a particular use in an area. Like it was said, whether it is a refrigerator, or what, and I guarantee that if you would go into that U-Store place, you would find more items in there than you have any idea of. I think it is kind of unfortunate that we have to go to—and I don't like the idea of changing the zoning, but I also don't like the idea of not being able to let him improve the property and to put his equipment inside. I think it is just kind of an unfortunate rock and a hard spot."

WARREN "I wouldn't mind tagging onto that. I think the thing that bothers me more than anything else, and I would like to say that I did drive down there again and looked at this property and I do agree with Marvin Krout that the fence off of Pinecrest would be a waste. Pinecrest is much higher than this building. This building is a lot lower. So I totally agree with him there. But the hypocrisy of this thing. If this gentleman was in the electrical business, and we have dozens around town, and had a fleet of trucks, they would probably be parked out there. If he were a plumber, they would be parked out there. If he had delivery trucks they would be parked out there and it would be legal that they would be parked out there."

They talk about the traffic—the Dillon's store that was there had 18-wheelers setting overnight many times. There is no doubt about that. What we are playing here is a 'gotcha' game. It is because you need 'GC' specified zoning that we 'gotcha'. I think the hypocrisy of that is terrible. What the man is asking for is a reasonable request. He is going to make a vast improvement; he is going to follow all of our rules and he is not going to do anything different than most people do in Light Commercial. Only in this case, it is a 'gotcha'."

MARNELL "Some aspects of this seem similar to the body shop issue we had. The times have changed and conditions may have changed, and we are living with a set of fairly fixed rules, and as a Commission we have to sometimes modify those. It is not so easy to simply rewrite them all to catch every circumstance. We are always going to come up with something that is different, and I think that is maybe why we are here."

Marvin, I have a question for you. The large storage facility that is located right near Mr. McFadden's property. If he went over and rented space inside their building from them, could he move his vehicles in there? Because they are not a contractor. Could he not do that?"

MILLER "No, he can't because businesses are prohibited from using those self-storage units. It has to be individual use. You can't operate a business out of a storage facility."

MARNELL "I'll bet there are a lot of businesses that are. I am going to support this use for this. I just wish there was a way to do it other than the underlying zone change, but I don't quite see this as seeing a nuclear silo in there, as it seems to have been represented. I think we can do some kind of restriction that will be appropriate without influencing further."

The other aspect is that the gentleman is willing to develop it looking just like the other piece of property, so from the folks driving up and down the street who would see the back side of this thing wouldn't know whether there was a Laundromat, a dentist's office, or whatever use on the other side. So, if a motion is made that way, I will support it."

PLATT "I, too, speak out of frustration on this case. I guess, after sitting here all afternoon, my suggestion to the Advance Plans Committee would be that they ought to consider just simply eliminating residential categories from our Zoning Code. We would certainly save ourselves a great deal of time if we would say 'hey, anything is fair game if this Commission decides to put it in'. Why bother to have residential zoning? I am amazed that we would consider putting a contractor's business next to residential zoning.

That is why we have the whole bit of staggered kinds of use to step down and protect the areas from just the Limited Commercial. Here we are going just the opposite instead of protecting the residential areas, we are building it the opposite direction, building up what can go in. I would say that the easiest way would be to simply do away with residential zoning. Then we wouldn't have to spend all of this time here. I certainly cannot support this proposal at all."

OSBORNE-HOWES "I have been looking really strongly for something to vote in favor of because I have voted against the last several cases. I have really tried real hard with this one to think about that, but the bottom line is that I think we are raising the intensity of use and I think that probably this really will be a domino effect. I remember voting against the storage in the shopping center and not supporting that because I was concerned about what that would mean to the neighborhood and we are seeing this.

This is certainly nothing against the gentleman and his business. I don't think we vote on people and their businesses. I think we look at use and I don't think this is sound planning. So I don't think I can support this, and it is too bad. I really would like to support something before I leave this afternoon."

MOTION: I move that we recommend to the governing body that the request be approved, subject to the following:

1. That portion of Parcel 2 that is zoned "GC" General Commercial shall be limited to the indoor storage of construction equipment and vehicles only inside the building and no other "GC" uses. There shall be no outdoor storage of construction equipment, vehicles or materials of any kind permitted.
2. The new building shall be attached to the existing building and have the same materials and design as the existing building. All overhead doors of the new building shall be located on the west façade of the building.
3. A landscaped street yard, with at least 1/3 of the required shade yard trees being evergreen, shall be established and maintained along the east property line.
4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
5. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.

WARREN moved, **MARNELL** seconded the motion.

MICHAELIS "Is the access on the west side, is that part of the building?"

KAPLAN "Yes, it will be."

MICHAELIS "So we can make that part of the motion?"

KAPLAN "Yes, that will be fine."

MICHAELIS "Any other discussion?"

MCKAY "Are you saying that we are going to zone it 'GC' and making it single purpose? Is that what you are saying?"

WARREN "Yes, it will be restricted by the CUP and/or any other Protective Overlays that staff may want so as to limit it to the specific purpose that we heard here today, and to whatever it was."

MICHAELIS "Any other further comments?"

VOTE ON THE MOTION: The motion carried with 8 votes in favor (Marnell, Johnson, Warren, Warner, Coulter, Michaelis, Hentzen, McKay)

and 6 in opposition (Osborne-Howes, Blake, Platt, Lopez, Garofalo, and Barfield).

KROUT "Does that number have a familiar ring?"

KAPLAN "Thank you very much."

Osborne-Howes left the meeting at 5:05 p.m.

8. **Case No. ZON2001-00011** — Jack Ritchie, Kevin M. Mullen, and George E. Laham, II (Owners/Applicants): Baughman Company, PA c/o Phil Meyer (Agent) request zone change from "SF-20" single-family residential to "TF-3" Two-Family Residential on property described as:

That part of the Southeast Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the Southeast corner of said Southeast Quarter; thence North 00 degrees 37'59" West along the East line of said Southeast Quarter, 1082.95 feet for a point of beginning; thence South 89 degrees 13'23" West parallel with the South line of said Southeast Quarter, 1286.29 feet to a point 50.00 feet normally distant East of the East line of Lot 1, Block A, Messiah Baptist Church 4th Addition, Sedgwick County, Kansas; thence North 00 degrees 35'35" West parallel with the East line of said Lot 1, and as extended North, 314.00 feet; thence North 89 degrees 13'23" East parallel with the South line of said Southeast Quarter, 575.90 feet; thence South 38 degrees 49'23" East, 88.27 feet to the P.C. of a curve to the left; thence Southeasterly and Easterly along said curve, having a central angle of 51 degrees 57'01" and a radius of 215.00 feet, an arc distance of 194.94 feet, (having a chord length of 188.33 feet bearing South 64 degrees 47'53" East), to the P.T. of said curve; thence North 89 degrees 13'36" East, 486.09 feet to a point on the East line of said Southeast Quarter; thence South 00 degrees 37'59" East, along the East line of said Southeast Quarter, 161.92 feet to the point of beginning all being subject to road rights-of-way of record. Generally located one-quarter mile north of 21st Street North on the west of 127th Street East.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant requests a zone change from "SF-20" Single-Family Residential to "TF-3" Two-Family Residential on a 6.8 acre unplatted tract located one-quarter mile north of 21st Street North on the west side of 127th Street East. The zone change request is associated with a plat (see attached) of the property (SUB2000-00085 – The Fairmont Addition) that was approved by the MAPC on February 8, 2001. The applicant proposes to develop Lots 1-13, Block K and Lots 45-50, Block C, The Fairmont Addition with duplexes. The applicant has requested annexation of the subject property by the City of Wichita, and the annexation is scheduled to be completed prior to City Council action on the request.

The surrounding area is on the fringe of the developing urban area for Wichita, with much of the land in the area still used for agriculture. The properties to the south and west are developing with institutional uses and are zoned "LC" Limited Commercial and "SF-6" Single-Family Residential, respectively. The property to the north is currently zoned "SF-20" Single Family Residential and is used for agriculture; however, the property to the north is proposed for single-family development in the "SF-6" Single-Family Residential district through The Fairmont Addition. The property to the east is zoned "SF-20" Single-Family Residential and is used for agriculture.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-20" Agriculture
SOUTH: "LC" Church, school
EAST: "SF-20" Agriculture
WEST: "SF-6" Church

PUBLIC SERVICES: The site has access to 127th Street East, an unimproved section line road. Traffic volumes for 127th Street East are not available. The applicant will guarantee paving of 127th Street East and the extension of public water and sewer service as part of the platting process.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Medium Density Residential" development. The Medium Density Residential category includes semi-detached dwelling units such as duplexes at a density of up to 6 to 10 units per acre. The duplexes are

proposed to be developed at a density of 5.6 units per acre; therefore, the request conforms to the Land Use Guide of the Comprehensive Plan.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is on the fringe of the developing urban area for Wichita, with much of the land in the area still used for agriculture. The properties to the south and west are developing with institutional uses and are zoned "LC" Limited Commercial and "SF-6" Single-Family Residential, respectively. The property to the north is currently zoned "SF-20" Single Family Residential and is used for agriculture; however, the property to the north is proposed for single-family development in the "SF-6" Single-Family Residential district through The Fairmont Addition. The property to the east is zoned "SF-20" Single-Family Residential and is used for agriculture.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-20" Single-Family Residential, which accommodates large lot, single-family residential development and complementary land uses. The site could be developed with such uses; however, the development of large lot residential uses in a developing urban area results in an inefficient land use pattern with higher costs per dwelling unit for the delivery of public services.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by lot orientation which has no duplex units fronting onto a street with single-family units and by similar density to single-family lots in the remainder of the subdivision.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Medium Density Residential" development. The Medium Density Residential category includes semi-detached dwelling units such as duplexes at a density of up to 6 to 10 units per acre. The duplexes are proposed to be developed at a density of 5.6 units per acre; therefore, the request conforms to the Land Use Guide of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted due to the guarantees provided by the developer for the extension of public services.

KNEBEL "This item is a zone change request. The property is currently zoned 'SF-20' single-Family residential and is located north of 21st Street North and west of 127th Street East. The applicant is requesting that the property in question be zoned 'TF-3' Two-Family residential to allow the development of duplexes. The applicant has had a plat of this property approved by this Commission within the last 6 weeks. The property highlighted in yellow is the area in question that is requested for duplex zoning. The site has access to 127th Street East. The applicant has guaranteed to pave that street to the intersections of this subdivision and extend water and sewer to this location.

The Land Use Guide indicates that this area is appropriate for medium density residential, which is consistent with the requested zoning and the use being duplexes. Staff is recommending that it be approved, subject to platting. This recommendation is based on the findings on Page 3. I will answer any questions."

MICHAELIS "Are there any questions of staff? All right, thank you, Mr. Knebel. Can we hear from the applicant?"

TERRY SMYTHE "I am here on behalf of the applicant. When I told Phil Meyer at 1:30 that I was going to take this case for him, and now that my truck has probably been towed, I am gong to question that I should have. And now that Commissioner Osborne-Howes has left, this is the one case she could have voted for.

I know that this scares most of the staff, but we agree with the staff on this. We met with the churches and everybody is fine. There is no opposition."

MICHAELIS "Are there any questions of the applicant? Is there anyone in the audience wishing to speak in favor of this application? Is there anyone wishing to speak in opposition. Seeing none, I will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood): The surrounding area is on the

fringe of the developing urban area for Wichita, with much of the land in the area still used for agriculture. The properties to the south and west are developing with institutional uses and are zoned "LC" Limited Commercial and "SF-6" Single-Family Residential, respectively. The property to the north is currently zoned "SF-20" Single Family Residential and is used for agriculture; however, the property to the north is proposed for single-family development in the "SF-6" Single-Family Residential district through The Fairmont Addition. The property to the east is zoned "SF-20" Single-Family Residential and is used for agriculture. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-20" Single-Family Residential, which accommodates large lot, single-family residential development and complementary land uses. The site could be developed with such uses; however, the development of large lot residential uses in a developing urban area results in an inefficient land use pattern with higher costs per dwelling unit for the delivery of public services. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by lot orientation which has no duplex units fronting onto a street with single-family units and by similar density to single-family lots in the remainder of the subdivision. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Medium Density Residential" development. The Medium Density Residential category includes semi-detached dwelling units such as duplexes at a density of up to 6 to 10 units per acre. The duplexes are proposed to be developed at a density of 5.6 units per acre; therefore, the request conforms to the Land Use Guide of the Comprehensive Plan. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted due to the guarantees provided by the developer for the extension of public services.) I move that we recommend to the governing body that the request be approved, subject to platting within one year.

BARFIELD moved, **WARNER** seconded the motion, and it carried unanimously (13-0).

9. **CON2001-00018** – Don Albers requests a Conditional Use to allow a major utility on property described as:

A tract in the West 100 acres of the Northeast Quarter of Section 32, Township 27 South, Range 4 West of the Sixth Principal Meridian, Sedgwick County, Kansas EXCEPT the North 269.5 feet of the West 442.89 feet thereof, more particularly described as beginning at the Northwest corner of said Northeast Quarter; thence East, along the North line of said Northeast Quarter, 442.89 feet to the POINT OF BEGINNING; thence continuing East along said North line, 70 feet; thence South 05 degrees, 23 minutes, 30 seconds West, parallel with the West line of said Northeast Quarter, 150 feet; thence West 70 feet; thence North 150 feet to the POINT OF BEGINNING, EXCEPT the North 60 feet thereof taken for road. Generally located south of West 15th Street South and east of 383rd Street West.

BILL LONGNECKER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is requesting consideration for a Conditional Use to allow a Major Utility on property zoned "RR" Rural Residential. The site (1/4 acres) is not platted and located southeast of the W 15th Street S – 383rd Street S, in Section 32, Township 27, Range 4 West, Sedgwick County, Kansas. The applicant proposes to sell the ¼ acre to Cox Communications for the installation of an unmanned 167 sq. ft. pre-cast, 10–ft tall building. The building will house electronics for Cox Communications that will provide service for the next 10 plus years to the Cheney – Kingman – Pratt area. Cox Communications provides cable TV and Internet service. The applicant has submitted a site plan showing the proposed use of the subject property. The site plan shows the building housing the electronics with an abutting generator pad and a 6-ft chain link fence around the structure and pad. The applicant is requesting consideration of 3 strands of barbed wire on top of the chain link fence. The applicant proposes a gravel drive from 15th Street South to the fenced in area.

Currently this site is undeveloped. The property to the east is being used for agriculture, beyond this abutting property, approximately ¼ mile away; there is a residence, separated from the abutting property by a hedgerow.

The property to the north, all the way to US 54, is being used for agriculture. The property to south is being used for agriculture. The properties to the east – southeast contain two vacant buildings (along W 15th Street from the site to the W 15th – S 383 Road Street West intersection) and two large metal warehouse type buildings, which appear to be active. There is also a residence southeast of the W 15th – S 383 Road Street West intersection and an active retail business southwest of the W 15th – S 383 Road Street West intersection.

The Unified Zoning Code's (UZO) definition of a Major Utility includes (page 29 UZO) "...facilities of agencies that are under public franchise or ownership to provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection, or other similar service." There is also a distinction made between Minor Utilities and Major Utilities in the size of structures used by the two types of utilities: a minor utility's structure cannot exceed 150 cubic feet. The applicant's proposed use of a 167 sq. ft., 10-ft high unmanned building housing electronics for Cox Communications makes it, by definition, a Major Utility. The Unified Zoning Code requires a Conditional use for Major Utilities in all zoning districts.

CASE HISTORY: The property is being used for agriculture

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Rural Residential	Agriculture
EAST: "RR" Rural Residential	Agriculture
SOUTH: "RR" Rural Residential	Agriculture
WEST: "RR" Rural Residential	2 vacant buildings and 2 active warehouses

PUBLIC SERVICES: Both W 15th Street – S 383 Road Street West are classified as county highways and are paved two lane roads. Average Daily Trips (ADT) at the intersection is 1683 ADTs on the north side, 2688 ADTs on the south side, 619 ADTs on the west side and 928 ADTs on the east side. There is gas, water and electricity for the site.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as Rural. Rural is intended for application in unincorporated Sedgwick County and accommodates very large, single-family residential development in areas where a full range of municipal facilities and services are not available and not likely to be available in the near future. The Unified Zoning Code requires a Conditional use for Major Utilities in all zoning districts

RECOMMENDATION: Based on the information available prior to the public hearing, staff recommends the application be APPROVED, subject platting within one year and to the following conditions.

1. All parking areas, loading areas and driveways shall be surfaced with concrete, asphalted concrete, asphalt or other comparable surfacing and shall be maintained in good condition and free of all weeds, dust, trash and other debris.
2. Required setback areas and yard areas, except where surfaced for parking, loading and circulation aisles, shall be landscaped with grass, shrubs, trees, or groundcover, and shall be maintained in good condition. The applicant shall submit a Landscaping Plan for approval by the Director of Planning.
3. Parking shall be provided for at least one maintenance vehicle and not occupy any of the required front setback.
4. Any noise generated by this facility shall not result in an increase of more than 5 decibels above the ambient noise levels.
5. The front setback shall be a minimum of 65-ft from the middle of W 15th Street.
6. All lighting shall conform to Sec. IV B 4, of the Unified Zoning Code.
7. The applicant shall resubmit a Site Plan reflecting recommendations of the Staff, the Cheney Planning Commission and the MAPC.
8. The applicant has one year from the time of approval to begin construction on the project.
9. Any violation of the conditions of approval shall declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The applicant's site and the surrounding area is zoned "RR" Rural Residential. Use of the surrounding area is predominately for agriculture, with 2 occupied residences. The residence to the east is approximately ¼ mile away. The residence to the southeast is approximately 100 yards away. There are two large metal warehouse type structures to the southeast between the residence and the proposed Major Utility. Two vacant structures, one brick the other a small concrete block building, are to the west. A vacant gas station sits west of the site on the southwest corner of the W 15th Street – S 383 Road Street West intersection. South of the vacant gas station is an active retail business.

2. The suitability of the subject property for the uses to which it has been restricted: Previous and now vacant business and current business is located in close proximity to the W 15th Street – S 383 Road Street West intersection. Except for the residence southeast of the intersection all other residences are approximately ¼ mile or more from the proposed site. Residential development on the proposed site is unlikely.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. Any detrimental affects would be mitigated by the recommended condition of approval and code required development standards.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request for a Major Utility on “RR” Rural Residential is a Conditional Use per the WSC Unified Zoning Code. The current zoning of “RR” Rural Residential is not slated for change. The Conditional Use request for a Major Utility provides an opportunity for the development of the Site according to the Wichita-Sedgwick County development standards.
5. Impact of the proposed development on community facilities: This is an unmanned structure, 167 sq. ft. and 10-ft tall, that will house electronics for Cox Communications. The impact of this development on the community facilities will be minimal.

LONGNECKER “This is a Conditional Use request for a major utility. The applicant is requesting this on property that is zoned ‘RR’ Rural Residential that is located south of 15th Street South and east of 383rd Street West. This particular location falls within the zone of influence for the City of Cheney. The Cheney Planning Commission met on March 19 and heard this case. The applicant is looking to put a 167-foot 10-foot pre-cast building on approximately a quarter of an acre. This will house electronics for Cox Communications for Cable TV and Internet services.

The property around the proposed site is Rural Residential, all the way around. The site plan shows the building itself and also an abutting emergency generator pad. The applicant is proposing to put a 6-foot high chain link fence around it with 3 strands of barbed wire. There is a vacant gas station abutting the property. There is another vacant building which was a storage facility for the gas station; and there is another vacant gas station there. It should be pointed out that there is a residence that is just below the southeast corner, that abuts those storage facilities and there is also an active business, a combination bowling alley and a pizza parlor that is on the southwest side of 383rd Street West.

The Cheney Planning Commission approved the consideration of this Conditional Use, subject to the staff recommendations on Page 3, Items 1 through 9. Are there any questions?”

MICHAELIS “Are there any questions of staff? Thank you, Mr. Longnecker. Is the applicant here?”

JIM HOCH “Thank you, Commission members for having me here today. I live at 809 South Calhoun in Fort Wayne, Indiana. Basically, this is a very small, unmanned telecom hut that will house electronic gear for Cox Communications. It will convey the video signal as well as the Internet to the Cheney/Pratt area, I believe.

Again, it is unmanned, it also contains a small generator. A 35 KW generator. To give you an idea, this is a small gas engine, a 4. liter V-6 engine. There was one recommendation that I want to bring up, and that is the recommendation, No. 4 on your list that states that the ambient noise levels will not be increased by 5 decibels. That is kind of tough. If you were to go out to the site, it is farmland. It is very quiet. If the decibel reading would be read at that point where nothing is nearby, that 5 decibel increase would be tough to achieve.

I will tell you that the generator is only used in a power outage. That is the only time that generator will run. It will be tested weekly for about a 30-minute period. So, don’t think that that generator will be running continuously, it will not. It will only run at a continuous state when the power is down, to keep the signal going.

Again, this is a very small building. It is basically 11 x 14 x 10 feet high, it is of pre-cast structure. It will come in on a truck and it will be lifted down and set upon a foundation system. Again, the trip visits, the visits to the site, once the site is lit, will be, hopefully—they don’t want to ever go out there because that is when they have to dial in the equipment and there may be a problem—but it is going to be approximately 2 to 3 times every 6 months. That is what is anticipated. So the visits to that area will be minor.

The building will be fully monitored. The people at Cox will know exactly what is going on in that building relative to the temperatures, relative to any alarming, security and fire. So it will be monitored. Just because of the degree of the expense of the equipment inside that facility.

With me also is Joe Williams from Cox Communication. He will be available to answer any questions that you may

have of him. This is part of a multi-million dollar build-up of a fiber-optic system in this part of Sedgwick County. I do ask you to consider Item No. 4 on your conditions, noting that, again, the generator will be tested once a week for about 30 minutes and will only be on in a continuous state when the power is down. Hopefully that never happens. Are there any questions?"

MICHAELIS "How long did you say the testing would last?"

HOCH "Approximately 30 minutes."

MICHAELIS "For how many weeks?"

HOCH "Every week. What we have to do is ensure that it works—that it is working condition."

WARREN "In that Item No. 4, if we were to insert in there in parenthesis or just maybe after a comma at the end of the sentence 'excepting an emergency generator', would that suffice your concern?"

HOCH "Right. This is purely an emergency generator."

PLATT "I just want to be sure, the generator is going to be inside the building?"

HOCH "No, it is outside the building. It is out on a concrete pad."

PLATT "Uh huh. A different problem."

HOCH "It will have weather housing around it and it will be situated to the rear of the building away from 15th Street. Again, the whole entire area is fenced. All of the other conditions, the landscaping, the screening, we fully agree with staff on and we will work with them to work those issues out, most certainly."

WARNER "What time of day do you normally do this testing?"

HOCH "I am going to speak for Joe here, but we can work that out with you. It would be during normal business hours 8:00 to 5:00."

MICHAELIS "Are there any further questions of the applicant? Thank you, Mr. Hoch. Is there anyone in the audience wishing to speak in favor of this application? Is there anyone wishing to speak in opposition? Seeing none, we will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. The applicant's site and the surrounding area is zoned "RR" Rural Residential. Use of the surrounding area is predominately for agriculture, with 2 occupied residences. The residence to the east is approximately ¼ mile away. The residence to the southeast is approximately 100 yards away. There are two large metal warehouse type structures to the southeast between the residence and the proposed Major Utility. Two vacant structures, one brick the other a small concrete block building, are to the west. A vacant gas station sets west of the site on the southwest corner of the W 15th Street – S 383 Road Street West intersection. South of the vacant gas station is an active retail business. The suitability of the subject property for the uses to which it has been restricted: Previous and now vacant business and current business is located in close proximity to the W 15th Street – S 383 Road Street West intersection. Except for the residence southeast of the intersection all other residences are approximately ¼ mile or more from the proposed site. Residential development on the proposed site is unlikely. Extent to which removal of the restrictions will detrimentally affect nearby property. Any detrimental affects would be mitigated by the recommended condition of approval and code required development standards. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request for a Major Utility on "RR" Rural Residential is a Conditional Use per the WSC Unified Zoning Code. The current zoning of "RR" Rural Residential is not slated for change. The Conditional Use request for a Major Utility provides an opportunity for the development of the Site according to the Wichita-Sedgwick County development standards. Impact of the proposed development on community facilities: This is an

unmanned structure, 167 sq. ft. and 10-ft tall, that will house electronics for Cox Communications. The impact of this development on the community facilities will be minimal.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. All parking areas, loading areas and driveways shall be surfaced with concrete, asphalted concrete, asphalt or other comparable surfacing and shall be maintained in good condition and free of all weeds, dust, trash, and other debris.
2. Required setback areas and yard areas, except where surfaced for parking, loading and circulation aisles, shall be landscaped with grass, shrubs, trees, or groundcover, and shall be maintained in good condition. The applicant shall submit a Landscaping Plan for approval by the Director of Planning.
3. Parking shall be provided for at least one maintenance vehicle and not occupy any of the required front setback.
4. The front setback shall be a minimum of 65-ft from the middle of W 15th Street.
5. All lighting shall conform to Sec. IV B 4, of the Unified Zoning Code.
6. The applicant shall resubmit a Site Plan reflecting recommendations of the Staff, the Cheney Planning Commission and the MAPC.
7. The applicant has one year from the time of approval to begin construction on the project.
8. Any violation of the conditions of approval shall declare the Conditional Use null and void.

MCKAY moved, **COULTER** seconded the motion, and it carried unanimously (13-0).

Item taken out of order:

- 11a.** Case No. CUP2001-00004 DP-62 – Chelsea Station CUP Amendment #7- request to convert the front portion of Parcel 9 from apartment to commercial use; and
- 11b.** Case No. ZON2001-0008 – Zone change from “MF-18” Multi-Family Residential to “LC” Limited Commercial, generally located at the northwest corner of Rockhill and Rock Road.

MICHAELIS “Is there anybody here to speak on this item? Seeing none, we will entertain a motion to defer it for two weeks.”

MOTION: That the case be deferred for two weeks.

WARNER moved, **JOHNSON** seconded the motion, and it carried unanimously (14-0).

- 10.** Case No. CON2001-00015 – Fairhaven Christian Church, Lloyd W. Dunn request a Conditional Use to allow a day care, general, on property described as:

Lot 32, Block 5, Prairie Woods Second Addition, an Addition to Wichita, Sedgwick County, Kansas. Generally located northwest of the Maize Road – Pawnee Avenue Intersection (2233 South Maize Road).

BILL LONGNECKER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant, Fairhaven Christian Church, is requesting consideration and recommendation for a Conditional Use to allow a Day Care, General, on property zoned “SF-6” Single Family Residential. The property (5 acres) is described as Lot 32, Block 5, Prairie Woods 2nd Addition, located northwest of the Pawnee Avenue – Maize Road intersection. Maize Road fronts the east side of the property and separates it from residential zoning and development. There is residential zoning abutting the site on the south, west, and north sides. The Unified Zoning Code requires a Conditional Use when a Day Care, General, is located in SF-6 zoning.

The applicant proposes to provide day care for approximately 32 children in a 5,000 sq. ft. building during the week. The applicant also proposes to fence in an area abutting the building of approximately 2400 sq. ft. This area would provide an outside play area for the children. Currently the site is under construction, with the Day Care building nearing completion and utilities being laid. The applicant has provided Staff with Site Plans and Landscape Plans that conform to the development standards of the City. All drainage and construction plans have been reviewed and approved by Public Works.

The neighborhoods to the west and south of the proposed site are zoned "SF-6" Single Family Residential and developed residential. The property to the east is zoned "SF-6" Single Family Residential and developed residential. The property to the north is zoned "SF-6" Single Family Residential and is being developed as a church.

CASE HISTORY: The property was rezoned in 1994 (subject to platting) from "LC" Light Commercial to "AA" One Family Residential & "A" Two-Family Residential and from "AA" One Family Residential to "A" Two-Family Residential. As of March 25, 1996 "LC" Light Commercial is now "LC" Limited Commercial. "A" Two-Family Residential is now "TF-3" Two-Family Residential and "AA" One Family Residential is "SF-6" Single Family Residential. The property was platted as part of the Prairie Woods 2nd Addition in 1997.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6" Single Family Residential	Church
EAST:	"SF-6" Single Family Residential	Residential Housing
SOUTH:	"SF-6" Single Family Residential	Residential Housing
WEST:	"SF-6" Single Family Residential	Residential Housing

PUBLIC SERVICES: Pawnee Avenue and Maize Road are paved two-lane arterials. There are no average trips per day recorded for this intersection. Municipal water and sewer services are available at this site.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this property as low density residential. The current zoning of the site is "SF-6" Single Family Residential, a low residential density. Day Care, General is a conditional use for this residential designation, per the regulations detailed in the WSC Unified Zoning Code.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The Day Care Center shall comply with all applicable state regulations.
2. Outdoor play shall be limited to the hours of 7:30 AM to 6:30 PM.
3. Because this is a nonresidential use, screening shall be provided along the side and rear lot lines, when adjacent to residential zoning/uses.
4. All outdoor lighting shall employ cut-off luminaries to minimize light trespass and glare, and shall be mounted at a height not to exceed $\frac{1}{2}$ the distance from the neighboring lot, unless evidence is provided to the satisfaction of the Planning Director that the light source will be aimed or shielded such that the light source is not visible from the neighboring lot.
5. Any violation of the conditions of approval shall declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The area around the site is zoned residential and developed single family residential. The Day Care, a Conditional Use in this zoning, is also being developed as a church, which is a Permitted Use in "SF-6" Single Family Residential zoning.
2. The suitability of the subject property for the uses to which it has been restricted. The applicant's proposal for a Day Care is appropriate, if the applicant can meet Staff recommendations.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: If the applicant can meet Staff recommendations, the affects on nearby property will be minimal.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The plan indicates this site is appropriate for low-density residential uses. Given the land uses, zoning and roadways adjoining this site, the request is in conformance with adopted location guidelines for residential uses.
5. Impact of the proposed development on community facilities: The impact of the proposed development will not be beyond the capacity of the existing community facilities.

LONGNECKER "This is a request for a Conditional Use to allow day care general in the Fairhaven Christian Church with the current zoning Single-Family Residential, the site size is approximately 5 acres. The property all around the site is zoned 'SF-6' single-family residential. The property itself abuts up to Maize Road. Pawnee is to the South.

A site plan has been submitted and approved by the plans reviewer. The applicant has also provided a landscaping plan that has been approved by staff, and all drainage construction plans have been approved by the Public Works Department. The site is actually under construction now. The church will house the day care center; there is single-family residential up against it. The church is also looking to provide a fenced-in outdoor area for recreational purposes for the children. Initially the church figures to have approximately 32 children at the day care center; that number will grow to approximately 64.

As it is now, the staff recommends that the Planning Commission consider approval of this application with the 5 items on Page 3 of the staff report as the conditions for approval. Are there any questions?"

GAROFALO "On Item No. 2, the hours—is that the hours of operation? Does that coincide with the hours of operation?"

LONGNECKER "Yes, sir. That would coincide with the hours of operation, I believe. (Asking applicant) 'Would that be true, sir?'"

Lady in the audience "No, I believe we would probably open at 6:30 a.m."

LONGNECKER "The day care itself will be opening at 6:30 in the morning, so the hours of operation will be earlier."

GAROFALO "And it will be 6:30 p.m. close?"

LADY IN THE AUDIENCE "Yes."

MICHAELIS "Are there any further questions of staff? Thank you, Mr. Longnecker. May we hear from the applicant?"

LLOYD DUNN "I reside at 3205 North 124th Street Court. I am wearing two hats—I am the preacher and I am also the contractor. Maybe I can answer any questions you might have. When we mentioned about the 32 children and then 64, the building is all under roof and at the sheetrock stage on the entire 5,000 square feet, but there are 1,800 square feet we are not going to finish until we see how the money shells out. I haven't seen anybody around us that is building that wants to pave our parking lot for us, but if that could be worked out, I would appreciate it. The church on the north doesn't seem to be open to that. But that is the situation there. If you have any questions, I would be happy to answer them for you.

When we went to Builders, Inc., to try to talk to them about the property, this was part of our selling point. We felt the church could provide this ministry in that area. We are simply fulfilling that. We still think there is a need; and we think we can do a good job with it."

MICHAELIS "Are there any questions of Mr. Dunn? Thank you, sir. Is there anyone in the audience wishing to speak in favor of this application? Is there anyone wishing to speak in opposition?"

DENISE HENDERSON "Hi. I live at 10502 West Haskell. The church that has been built has basically been built in my back yard. There were some slides that show the problem really well. Could someone help me go back to them?

Basically, this is the post that is in the back yard that is holding the dirt back; this is a ditch, which is actually on my property. Could you go back one more slide? This is my home. This is the end of that post, and then literally the building is right here (indicating). From our property line to the church is 50 feet. This shot was actually taken from my back yard. (Indicating) From here, they are wanting to put a 46-inch fence that will hold approximately 60 children. Also, back here, within this small area, they are also wanting to put an access road.

I don't know about most of you guys, but if I had an access road in my back yard, or literally stones' throw from your balcony, it wouldn't make you very happy. It is not the idea of the church, the church had a large area, but they could have built it not so close to the property line, had their business, and I don't think anyone in the neighborhood would have been bothered by it. We were happy to have a church close and I am still happy to have a church close, but not that close. The worse thing is that the child care center that is going to, at some time,

hold 60 children, the traffic that it is going to cause. I have 9 grandchildren that play in that back yard. How safe is that going to be for a road to be right there at the day care center?

My husband works at Learjet; he works at night and sleeps during the day. To have 60 children in your back yard and trying to sleep is something that any residential family should not be asked to do. I'm sorry, I have never spoken like this before and I am just really nervous. I don't know what else I can say, but the noise level will be increased greatly, I am sure, with 60 children there, or even 32 children. I can't even imagine having 32 children in the back yard, when 9 makes quite a bit of noise as it is when they are all there. That is very rarely. If there is anything you can do to stop this, or to have them put the day care in an area that is either in front of their church or away from my home, where it not so close. "

MICHAELIS "Thank you, Ma'am. Is there anyone else to speak in opposition to this item? If not, Mr. Dunn, you have two minutes for rebuttal. You can address anything that was brought up."

DUNN "The road that goes behind will not have anything to do with the children either picking them up or letting them out. That is a future road that will divide the parking. Part of it will be in front, and even right now, only a portion of that is being put in, so the next phase would extend our parking lot on across the front, and then somewhere in the future, we have designed it to where there would be access on either side to a parking lot in the back. It is not being put in now.

When I talked with the City about the area, one of the options was to put up a fence. I really hated to get into the fortress mentality of shielding everything off. A lot of that property is going to be vacant for quite some time and we are going to try to put a sprinkler in and keep it a nice, green area where the kids in the area are welcome to play. Like I said, there is not going to be any traffic past the drop-off for the school; it will be in front of the church. On the south, for most of the homes there, there is an easement, and that ditch is basically between our property and theirs. But most of the houses, when the grading went in, their grading came out a couple of feet high and most of them are trying to retain their dirt on the property line. So what ditch is there, is showing all on us, but basically, the ditch is between the two properties. We did move the building over and put 15 feet for buffer there. In addition to the road, that 15-foot will be filled with evergreens. I think Donna required us to do about half of the landscaping of Wichita on the side and in front to try to shield it site wise.

The play area will be toward the back of the building and probably around behind the building. We don't want to put that in the area where the future road will be because we would have to take it up then. It does accommodate 32 kids outside because they switch off on the playtime. Not all of them will be out there at any one time. Are there any other questions?"

MICHAELIS "Is this building going to be the primary church building or is this going to be the primary day care building, or is that depending on the money?"

DUNN "Actually, our plans were to build this building kind of this side on the property, mirror it with one on the other side and then they would be tied together with a foyer and the main church building behind that. That is dreamsville at the moment. We haven't begun to image how that might exactly work out, but those are kind of the phases we have in mind."

MICHAELIS "Would it be a consideration at all to move that play area like to the rear of the building, or to the side of the building?"

DUNN "Let me go over here and address that. There are a couple of doors (indicating) one here and one here. If you took a line right across there, this is the only part of the building that we are finishing at the present time. We have put a sidewalk along the entire site of the building, but the kids now will be coming out of this door and going to the play area. Yes, the play area can go back here (indicating) as opposed to what they are showing out here, but this is all going to have to be fenced to keep the kids from taking off."

MICHAELIS "Okay, so that is something that you would be willing to do? You would be willing to shift it around?"

DUNN "Yeah, we can put more of it back here."

MICHAELIS "Okay. Are there any further questions?"

GAROFALO "Could you stay over there at the map, sir? I don't understand why you need a drive back there. Show me where the drive would be."

DUNN (Indicating) "Here is our outlet onto Maize Road. In the future, we have authorization to take another drive on the other side of the property. We are not doing that at the present time, but that is in the Master Plan. We

have two drives out onto Maize Road. Eventually, because we are talking about putting our buildings here, we are going to bring and split the parking lots so we don't have to run a shuttle service from the farthest parking space.

Our property goes all the way back to here (indicating), so we were planning to split our parking. This portion we are putting in now, and we would extend this on up, probably with the next phase, and then in the future, when they build the building, there would be access to parking at the back of the property. We have already moved this over 5 feet. There is 15 foot of buffer area there and then the drive."

GAROFALO "Is it 15 feet from the property line?"

DUNN "Yes."

GAROFALO "And then you have a drive. How far is the drive from the building?"

DUNN "Oh, I would say it is 10 to 15 feet from the building."

GAROFALO "There is no other way you could configure that to have a drive that wasn't that close to the property line?"

DUNN "Well, we didn't realize it would be a problem being close to the property line."

GAROFALO "Didn't you guys talk to the residents back there?"

DUNN "We stayed off of the easement, we gave an extra 5 feet for the buffer area. I don't think we would want to say that we wouldn't have access to the rear of our property. We are going to be doing essentially the same thing on the other side. Yes, I suppose we could have designed the building with a walk-over and had two sections and put the drive down the center of the property, but we had no way of anticipating that anybody would mind a drive."

WARREN "I would like to have it clarified again. The building you are going to build, I would assume, is Stage 1, and then you are going to have both a church and your proposed use here? A combination building there."

DUNN "That's right. During the week they would have a day care there and on Sunday, we will have our worship services."

WARREN "Do I understand that you would have a walk coming out of those that would access those two back doors? A walk across the back of the building?"

DUNN "We have a walk along the entire back of the building, but the only walk that would be open to the children right now would be that first one, because the second portion of the building isn't going to be finished out and they wouldn't allow us to take the kids through there."

WARREN "But the outside structure is going to be completed, just the inside won't be?"

DUNN "That is correct."

WARREN "So you could put a walk all the way across your structure now that would get kids out to the west side?"

DUNN "Yes, we have that there."

WARREN "So you could, and you are agreeable to putting this play area to the west of the building as opposed to the south of the building?"

DUNN "Yes, that is fine."

MICHAELIS "Are there any further questions? All right, I will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood). The area around the site is zoned residential and developed single family residential. The Day Care, a Conditional Use in this zoning, is also being developed as a church, which is a Permitted Use in "SF-6" Single Family Residential zoning. The suitability of the subject property for the uses to which it has been restricted. The applicant's

proposal for a Day Care is appropriate, if the applicant can meet Staff recommendations. Extent to which removal of the restrictions will detrimentally affect nearby property: If the applicant can meet Staff recommendations, the affects on nearby property will be minimal. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The plan indicates this site is appropriate for low-density residential uses. Given the land uses, zoning and roadways adjoining this site, the request is in conformance with adopted location guidelines for residential uses. Impact of the proposed development on community facilities: The impact of the proposed development will not be beyond the capacity of the existing community facilities.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. The Day Care Center shall comply with all applicable state regulations.
2. Outdoor play shall be limited to the hours of 6:30 AM to 6:30 PM.
3. Because this is a nonresidential use, screening shall be provided along the side and rear lot lines, when adjacent to residential zoning/uses.
4. All outdoor lighting shall employ cut-off luminaries to minimize light trespass and glare, and shall be mounted at a height not to exceed $\frac{1}{2}$ the distance from the neighboring lot, unless evidence is provided to the satisfaction of the Planning Director that the light source will be aimed or shielded such that the light source is not visible from the neighboring lot.
5. The fenced in play area as shown on the Site Plan shall be moved from the south side of the church/daycare to the west side of the church/day care.
6. Any violation of the conditions of approval shall declare the Conditional Use null and void.

MCKAY "Ron, would you be opposed to adding into your motion that the driveway along the backside not be put in until time of the construction of the project is needed?"

MARNELL "I think I will just leave it like it is."

MICHAELIS "We have had a question on clarification of the fencing to go around the playground. Have we specified that, or do we need to?"

KROUT "Staff had recommended that it be screened, which would mean that a 6 foot solid screening fence. That is what we require for screening. I think the applicant said they would do that. They prefer not to, but they would do it."

DUNN "Are you talking about on the property line?"

KROUT "We're talking about around the defined playground area."

DUNN "I don't think we would want to go that route there. All we are trying to do is just give an area to contain the kids. I wouldn't be in favor of putting a wooden fence there."

KROUT "I guess we just wanted clarification as to what the Commission wanted."

MARNELL "The motion that I intended was that there would be a 6-foot wooden fence that would enclose the area, and enclose the playground area."

HENTZEN "I think I want to agree with the pastor. We don't need to screen these kids playing. I think it would be better when they are playing out there, if one of them fell that the neighbors could see them and run over and help them. If we need a fence around a play area, that is one thing, but to say you have to put up a wooden fence or a rock fence, I think that is absurd. If I can, I am going to ask you not to do that."

GAROFALO "Just for clarification. The motion moved the play area to the other side, the west side?"

MARNELL "To the west side, yes."

GAROFALO "And leaves the drive in at this point?"

MARNELL "Yes."

MICHAELIS "I guess I am confused here. I will ask the pastor to come back on this. Your plan here shows a fence for the play area?"

DUNN "We have to put up a chain link fence so that the kids will stay in the play area."

MICHAELIS "Okay. Thank you."

WARREN "Is a chain link fence acceptable--is that what you are asking? As opposed to a wood fence?"

DUNN "Yes, sir."

WARREN "I have no problem with that."

PLATT "I find this a pretty upsetting proposal. It doesn't seem to me that it should make any difference whether it is a church or a contractor's storage area that when someone is doing something, they ought to be paying attention to the neighborhood. I am appalled at what the applicant is proposing to do here in terms of the neighbors to the south. I don't think it is permissible at all. I might be inclined to support it if the playground is moved to the west and if the future drive is eliminated entirely. I certainly wouldn't want a driveway right in my back yard like that. I just think it is a terribly insensitive approach, and one which certainly can't vote for."

GAROFALO "Has this already been platted?"

KROUT "It was platted in 1997."

GAROFALO "I suppose it was platted with the drive?"

KROUT "When we plat property, we really don't identify the internal circulation on the site plan. It could be a variety. What we do have is a drainage plan and the access points that are permitted. It was probably just said that two points of access allowed along the frontage of this lot."

GAROFALO "I like the idea of moving the playground over to the west side, but I still have a problem with this drive that close to the property line."

MICHAELIS "Amend the motion."

GAROFALO "I would ask for an amendment. Can I amend the motion?"

MICHAELIS "You can ask the motion-maker to amend it."

GAROFALO "Well, he has already answered that question. I think John asked him that. Will you not consider removing that driveway back there? They could find another way to go."

MARNELL "People build driveways adjacent to property lines all of the time. As long as it meets Code, it meets Code."

HENTZEN "My neighbor's driveway touches my property line."

GAROFALO "Well, yeah, so does mine, but this is a church. There is going to be quite a bit of traffic there."

MICHAELIS "I think he has answered your question."

WARREN "We don't have any legal counsel here, so maybe Marvin would like to try this on. Would we would be within our rights to deny a permitted use like that because we didn't like the guy's site plan?"

KROUT "Yes. If it was based on reason and there were other options for him to use his property. If he could demonstrate to you that it was a hardship for him to use his property in any other way than the way he has presented it to you, which is the location of the playground and the 42 inch chain link fence."

WARREN "I think that is right, Marvin, but I guess what I am saying is that I think we can dictate where the fence goes, where the playground goes, and what kind of a fence, but I don't know if there is a relationship to this drive, to the application at hand. I question that we could deny that application because we didn't like the guy's driveway, which had no bearing on the case at hand."

KROUT "There is something to that because the drive is something that could have been constructed by right without any review if it wasn't that it was being brought to your attention because of the day care."

JOHNSON "Where abouts are the landscape requirements going to be on this?"

LONGNECKER "Right now, as I understand the landscaping, and Donna, you might help me out here, runs along the property line and the drive, this 18-foot upper space here."

JOHNSON "Is there a plan on it?"

LONGNECKER "Yes. The plan has been approved."

GOLTRY "He has an approved landscape plan and he requested not to put in the screening wall, instead to plant it at the more dense rate of a tree for every 30 feet plus 5 shrubs for every 30 feet along the property line, which is available for office and institutional uses, such as churches."

KROUT "Otherwise, they would have to put a 6 foot fence along the property line, continuous along the property line."

JOHNSON "So when the parking lot is constructed in the back, that parking lot will look into the neighbor's back yards."

GOLTRY "They will have trees. It is at least a third evergreen trees, and yes, there will be openings that you can see in between."

JOHNSON "But there is enough room to get the landscape plan in with the drainage way and a utility easement, the way it is proposed here, and the drive? Okay."

GOLTRY "Can I say one more thing? The reason why he said he has to move it 5 feet is because it requires that 15-foot minimum width and it was not 15 feet when it was originally proposed on the landscape plan. So he did move it over 5 feet. He met minimum Code standards that way."

JOHNSON "Okay."

MICHAELIS "Any further discussion? All right."

WARREN "Is the motion maker still going to stick to the wooden fence, or will you go for a chain link option?"

MARNELL "I think I would like to stick with the wooden fence. Listening to the neighbor's opposition and the fact that this is right next door to it. That is a lot of kids out there. I think that makes a lot of sense here."

MICHAELIS "I am going to ask the maker of the motion, would you consider a wood fence along the south side and then a chain link on the other where it doesn't abut the neighbors?"

MARNELL "I don't think, when you look at it, that it ever gets away from the neighbors. There is residential zoning all around him."

MICHAELIS "Well, but not directly. I am thinking that with the sidewalk going along there, if that sidewalk was a wood fence and then opened up after it got back to the west part of the building, but I am just asking."

MARNELL "I don't think it is burdensome."

VOTE ON THE MOTION: The motion carried with 10 votes in favor (Osborne-Howes, Marnell, Blake, Johnson, Warren, Warner, Coulter, Lopez, Michaelis, Hentzen and McKay) and 3 in opposition (Platt, Garofalo and Barfield).

KROUT "This decision of the Planning Commission will be the final decision unless there is a written protest that is filed by someone with 200 feet."

-
12. **Case No. CUP 2001-00009 DP-8 University Gardens C.U.P. Amendment #10** – City of Wichita (owner/master lessor); The Air Capital Community Development Company, Inc. (master lessee); Michael

N. Williams (owner) request to amend the screening requirements for Parcels 8 and 9 on property described as:

Lot 32, Block 5, Prairie Woods Second Addition, an Addition to Wichita, Sedgwick County, Kansas. Located on the northeast corner of 21st Street North and Oliver.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: This is a request to amend the screening requirements for Parcels 8 and 9 of DP-08 University Gardens C.U.P. A four-foot solid wall constructed of either brick, stone, masonry, or architectural tile was required along the west 35 foot setback line, except at approved points of ingress and egress as a condition of a special use exception to use the 200-foot buffer strip of property zoned "SF-6" along the west property line as a parking lot (BZA 2-80). This requirement is denoted as part of a 35-foot landscaping strip along both the west property line of Parcels 8 and 9 and the south property of Parcel 9 extending east from Oliver for 275 feet (General Provision #3 of the C.U.P.).

Parcel 9 abuts the northeast corner of the intersection of 21st and Oliver. A medical office building is located on this parcel. Parcel 8 is located to the north of Parcel 9. It was recently converted from an old Dillion's Store to a multi-tenant structure for entrepreneurs and start-up businesses, currently including Oliver's Collectibles, Designers Connection, and Via-Net Transcriptions. The requested amendment would remove the four-foot screening wall and perhaps reduce the height of the berm on the site in order to increase visibility of the businesses to travelers passing by the site.

The University Plaza Shopping Center includes an indoor climate-controlled storage facility (Storage USA), two restaurants along 21st, and a commercial building currently occupied by Breakthrough Ministries Church (tenant), Harold E. Jones Attorney's Office (tenant), and Pop's Laundromat. This building is located on Parcel 2 near the east edge of the C.U.P. and was considered for another amendment by MAPC on February 8, 2001. The request was deferred until March 22, 2001. Tall Oaks Apartments to the north also is part of the University Gardens C.U.P.

The other land uses in the surrounding area vary in each direction, with a wide mix of uses. Wichita State University is located to the southwest of 21st and Oliver, with the golf course on the corner and the baseball complex farther to the west. Crestview Lakes, a large-lot residential development is located directly to the west of the application area. East of the C.U.P. there are two multi-family housing projects. These are the 32-unit senior housing project, Pinecrest Senior Residences, and the eight-unit complex for group housing, Pinecrest Court. There is also the future site for Breakthrough Ministries Church, which is currently a tenant on Parcel 2 (the application area). There is also a cell tower and a warehouse, self-service storage, to the east of Pinecrest.

There are a large variety of uses to the south and southeast also, including Unity Church and River Community Church on the southeast corner of 21st and Oliver, some offices and small apartment units. Three other uses merit mentioning. These are a convalescent care facility (Integrated Health Systems), the Cerebral Palsy Research Foundation of Kansas, and the Timbers, which offers housing for handicapped persons and has a large number of residents who are confined to wheelchairs. These residents utilize the sidewalks along 21st to travel to shopping areas for their shopping needs.

CASE HISTORY: DP-8 University Gardens is one of the oldest C.U.P.s in Wichita, dating to July 6, 1965. The original C.U.P. only included the multi-family area where Tall Oaks is located. Amendment #1 approved June 12, 1969 by the Board of City Commissioners created the commercial component of the C.U.P and added the shopping center parcels. The Board of Zoning Appeals case (2-70) allowed the buffer strip on Oliver to be used for parking. The Landscape Plan required in conjunction with the C.U.P. and the BZA case was not completed initially. This deficiency was finally resolved in 1977 and the wall was installed. However, apparently the landscaping was not maintained in compliance with the Landscape Plan, according to records in 1995.

More recently, Amendment #7, approved March 4, 1986, by the Wichita City Council removed the fast-food prohibition from Parcel 10, and Amendment #8 approved by MAPC on July 30, 1998, allowed the former K-Mart facility to be converted to an indoor storage facility, with the underlying zoning remaining "LC" Limited Commercial. Last year the BZA approved a sign variance, also in response to the lack of visibility of the buildings from the street. In order to compensate for the lack of visibility, a projecting building sign was allowed to be 38 feet in height (BZA2000-00003 dated April 25, 2000).

Many other applications have been filed regarding the property. One was an attempt to downzone the "LC" property to "AA" that failed (Z-0655 denied July 6, 1965).

ADJACENT ZONING AND LAND USE:

NORTH: "B"	Tall Oaks Apartments, single-family
EAST: "LC", "MF-29"	Self-storage, cell tower, vacant (future church), Pinecrest Senior Residences, Pinecrest Court
SOUTH: "SF-6", "LC", "GO"	Churches, convalescent care facility, Cerebral Palsy Research Foundation of Kansas, group home (the Timbers), small commercial uses
WEST: "U", "SF-6"	Golf course, single-family residences

PUBLIC SERVICES: Transportation access is via 21st Street North, a five-lane arterial street. In 1997, average daily trips were 21,353. Traffic is projected to increase modestly to 26,302 daily trips in 2030. On Oliver, average daily trips were 10,819 in 1997. This is projected to increase to 16,797 in 2030. Other municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* shows the site as "commercial", and would be considered a neighborhood center, typically anchored by a supermarket with a variety of tenants.

The area is just beyond the boundary (southwest corner of 21st Street North and Oliver) of the neighborhood plan, "Northeast: Rediscovering Community" (November 1995). Recommended strategies for commerce and economic development of the Northeast Plan are to "retain or replace existing full service grocery and general retail goods stores within or close to the study area (CE-2), "establish a program of 'challenge grants' and other financial incentives to attract new investors to the area (CE-3), and assist community-based development ventures, cooperatives and other similar organizations which provide local community benefits, as resources permit (CE-4). In conformance with these strategies, the space previously occupied by Dillon's was converted to University Plaza in December 2000. It is oriented to start-up businesses and spearheaded by The Air Capital Community Development Company, Inc., a subsidiary of the Kansas Southwest Jurisdiction of the Church of God in Christ. It is the result of a public/private partnership to accomplish the strategy of a mix of retail uses available to the neighborhood.

RECOMMENDATION: After the center had suffered a period of serious decline, marked by the loss of Dillon's, K-Mart, Revco, Sonic, Kinko's and other tenants, an aggressive and determined area by the church-based venture that has been supported by an active neighborhood association, Chisholm Creek Neighborhood Association, has resulted in a turnaround. The shopping center has been the subject of a major effort to redevelop it with a sound mix of tenants that provide a variety of retail goods and services to the surrounding neighborhood. There are new tenants in University Plaza, and Storage USA is offering a good-quality mini-storage option to the general public. The efforts are resulting in an achievement of the strategies of the neighborhood plan.

The lack of visibility of the commercial buildings from travelers on 21st and Oliver is a hindrance to the retailers in University Plaza. The buildings are below the grade elevation of the street. In addition, the landscaped area is bermed and has a four-foot screening wall that further hampers visibility.

This is a unique situation. Other retail sites throughout Wichita are required to have landscaped street yards with low shrub screening in order to soften and enhance the appearance of the commercial structures and parking lots. But wall requirements are restricted to along common property lines or to screen outside storage or loading areas. In this case, the elevation drop from the arterial streets to the buildings in the center further reduces visibility.

Based on these factors, the conformance of the uses developed on the parcels with the policies of 1999 Update to the Wichita-Sedgwick County Comprehensive Plan, and the information available prior to the public hearing, Staff recommends the application be APPROVED subject to the following conditions:

1. The four-foot screening wall shall no longer be required as a part of the C.U.P.
2. A revised Landscape Plan, prepared by a licensed Landscape Architect, shall be submitted for approval to the Planning Director. This Landscape Plan shall maintain a 35-foot planting strip along the west property line of Parcels 8 and 9 and along the south property line of Parcel 9 for 275 feet. This planting strip shall include trees and shrubs per the Landscape Ordinance.
3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
4. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
5. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department

within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is an unusually diverse mix of residential, commercial, institutional and park uses. Continued commercial use is in character with the commercial uses to the east and south. The property has been zoned "LC" with the "SF-6" (formerly labeled "AA") buffer since 1965.
2. The suitability of the subject property for the uses to which it has been restricted: Continued commercial use is in conformance with the existing "LC" zoning for most of Parcels 8 and 9. The use of the "SF-6" strip for parking has been approved by as a use exception (BZA 2-70 for non-required parking; amended to be for required parking by BZA12-80).
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The removal of the screening wall and any reduction in the height of the berm will make the property more visible from the residential uses across Oliver from the shopping center. However, the use of the 200-foot buffer strip along Oliver as a 35-foot wide landscaped street yard and parking provides a larger degree of buffering for the residents across Oliver, a major arterial street, than in most similar situations.
4. Length of time the property has remained vacant as zoned: The property was vacant for several years, but has recently been occupied by new commercial businesses.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed change is in conformance with the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan and would encourage realization of the goals and strategies of the Northeast plan to reestablish general retail uses in the neighborhood along the 21st Street corridor.
6. Impact of the proposed development on community facilities: None.

University Gardens was once the location of a Dillon's, K-Mart, Revco, and other small tenants in the main building of the shopping center. The Dillon's site has been converted to a multi-tenant structure for entrepreneurs and start-up businesses, currently including Oliver's Collectibles, Designers Connection, and Via-Net Transcriptions. The K-Mart building was converted to Storage USA Self-Storage (climate-controlled indoor storage only).

Finally, the presence of several unique residential facilities for specialized needs, including the Timbers, Pinecrest Senior Residences, Pinecrest Court (mentally ill residents) makes this a neighborhood that has accommodated a mix of housing types. It behooves the public to protect this mix by ensuring the type of commercial uses nearby encourages the continued operation of these residential facilities. If the adjustments to the landscaping and removal of the screening enhance the viability of the retail center, it could increase the likelihood of reestablishing retail services at the center.

GOLTRY "This is amendment No. 10 to University Plaza, and it affects instead, the parcels on the other side. This is the parcels along 21st Street and Oliver, Parcels 8 and 9. This request to amend the CUP was to eliminate the 4-foot screening wall on Parcels 8 and 9 in order to improve the visibility from 21st and Oliver. This request was deferred at the MAPC meeting on March 5 to 1) discuss the landscaping plan with the neighbors, and 2) to discuss the financing of the improvements.

A meeting was held last Monday night, March 19, with the neighbors. Although there were only a few at the meeting, the consensus was that they felt that the plan that had been presented, the Landscape Plan, was basically a good one with the suggested addition of some additional trees along in the area where we had a rather open view and they asked, the neighbors across the street that way (indicating) asked for some thickening up of the trees in this particular area on the Oliver side. They felt that the additional trees would give them a better buffer, but would still allow that sought after visibility since the canopy of the trees would be trimmed up so that you could see under the trees to see the center.

The neighbors had one other point that they hammered on that night, and that was that if the CUP was amended to allow the screening wall to be removed, that there be something in effect to make sure that there was replacement landscaping installed in a timely manner, and that it was properly maintained.

Now, concerning this financial arrangement issue that arose at the last meeting for the replacement landscaping, the three applicants have agreed on the following points. One, that the maintenance of Parcel 9, that is the corner parcel, will be by the owner of that parcel, and that is Dr. Michael Williams. He is here today. He has Winston Stith here to represent him today. They agreed to the ongoing maintenance responsibility and I will point out to you as

an aside that this is the same parcel that we discussed ad nauseam earlier today, and obviously, there have been a lot of allegations of improper maintenance along this CUP. I will say that there has been a lot of it, but Dr. Williams has not been among the people who have failed to maintain his portion.

Secondly, the maintenance of Parcel 8 would be accepted by the lessee. That is the Air Capital Community Development Company, who is represented by Bishop Gilkey here today. I will also tell you that since Bishop Gilkey took over use of this property, the maintenance of the property has improved dramatically. He has gone out to clean it up to get rid of a lot of the dead shrubs, which is where this issue arose. If you have been by it, you have seen that some of this screening wall that we are discussing is going to fall down whether we approve it falling down or not. Part of it is already down. He has been working to try to not only keep the property properly maintained, but instead would like to upgrade it.

Third, installation. Installation will be handled by a joint agreement between the parties that is in the process of being structured at the current time. We don't have the final details on that. However, the nature of this agreement is not really the primary matter of consideration today because if you draw this analogy to when any other private developer would be developing their own properties, we wouldn't get into the structure of how they were going to install and maintain their property; what we would get into is a condition of approval. That condition of approval would set forth that if you remove the screening wall you will replace it with the proper amount of landscaping. That is the appropriate purview in my opinion for today's discussion.

Staff has recommended approval with the conditions as stated in the previous application. I would add, because of the concerns that arose from the neighborhood meeting that they wanted to ensure that does the wall come down, it is replaced with an amount of landscaping that perhaps we might want to restructure Condition Nos. 1 and 2, making them a single condition that the 4 foot screening wall shall no longer be required as a part of the CUP. It should be replaced by landscaping as required by a revised landscape plan prepared by a landscape architect. With a final statement, this landscaping shall be installed within 1 year of removal of the screening wall. I propose a year because depending on how you hit the growing season; you've got to have some latitude in the installation of your plant materials.

It is really late, so I am going to stop. Oh, I should say one other thing. Last time, you were very concerned that there was no one from the City of Wichita here to represent this. Mr. Philbrick had hoped to be here today, but he had another previous commitment at 4:45, so we missed out time slot and he wasn't able to remain. I did speak with him today, and I can tell you that there are financial discussions going on, they are just not final at this point. On the City's part, looking at what they can do."

BARFIELD "As I recall, before there was talk not only removing the wall, but also about the berming. We have had no conversation about that today."

GOLTRY "The berming is almost a side issue. When the application was brought to us to be filed, it was phrased as berming and screening. That is the way the request came in. When I published the announcement in the newspaper, I said 'removal of screening and berming' because that is the way I understood it at that time. Upon further investigation, what we discovered is berming is really not central to it because it is mostly naturally occurring grading that is there, due to the fact that the Dillon's and K-Mart kind of scooped out the site, so to speak, so it is just really a drop in grade. So I would respectfully request that instead of focusing on that, we just kind of eliminate the berming part and stick with the staff recommendation that we remove the screening wall."

BARFIELD "Do we have an estimated cost to do that?"

GOLTRY "We have some preliminary estimates. I don't believe that they are ready for discussion on the table today. They need some more work. Again, as I say, I think it is probably between the owners of the parcels to determine this. One owner is really just a co-applicant and not a primary applicant, so of course, his responsibility would be differently structured."

BARFIELD "And finally, do you have a letter from Mr. Philbrick or anyone from the City stating their level of participation?"

GOLTRY "Informal letters that have been working, but nothing final. That is why I say it is in process."

MICHAELIS "Are there any further questions of staff? Thank you, Ms. Goltry. May we hear from the applicant, please?"

J.C. GILKEY "I represent the Air Capital Community Development Company. I am not going to be redundant—I spoke the last time and you have that information. Donna has spoken the sentiments of our heart today. We met with those who were here opposing us the last time this issue was on the docket. All of those persons consented that this should go forward. They said they would approve of the plan and they had no problem with opposing it.

So I am not going to be redundant any more, since those who were opposing it are not opposing it anymore. I am finished with it. Hopefully, you will pass it now."

MICHAELIS "Mr. Gilkey, would you care to share with us any of the preliminary estimate numbers that you have received on this?"

GILKEY "Not at this time."

WARREN "The last time this came up, I would have to admit, that when I looked at the report as it came to us and it looked like a slam dunk. As a result, I didn't go by and look at it. Since then, I have gone by and looked, and I was influenced by, I think an honest, but a very erroneous assumption that maybe this going to cost \$100,000. I didn't know where that was going to come from. As I have gone and looked at this thing, and for those of you who have not, the fence is in pieces. I somehow was anticipating an 8-inch thick concrete wall that had to be removed. The fence is a series of posts and slabs of concrete that just lift out. So I don't think there is much cost. When he said he could tear out, I questioned it a little bit."

MICHAELIS "I made the comment as far as the amount. When I made that, I was looking at a very, very extensive landscaping plan up there, and I still stand by that I don't know whether that could be done."

GOLTRY "Excuse me. Can I interrupt? We still have another applicant who hasn't had an opportunity to speak."

MICHAELIS "Oh, I'm sorry."

WINSTON STITH "I am with Prudential Dining Beard. I am at 8834 Denker Circle, Wichita 67210. I am here on behalf of Dr. Williams who had to leave town on an emergency."

After reading the minutes of the last meeting, it was quite interesting to see that it seemed like the point of the whole issue was kind of lost somewhere in cost and things of that nature. I don't think that that is the issue, or should be the issue after talking to somebody in Planning and seeing how this board is supposed to be set up. One of you gentlemen even said it was a land use and zoning issue that was a concern. As Mr. Gilkey stated, we met the other day and the president from Crestview Lakes was there and they all agreed to the plan that was going to be put in place. I don't think it is an issue of dollars and cents, I think it is an issue of choice in allowing the people who own the property to go ahead and make a choice as long as they do it in respect to the neighborhood. I think that has been established that they will do it within respect of the neighbors and everyone has consented.

I push that this is approved and allow these people to go ahead and move forth and progress with that area that has been empty for quite some time. You have some people working hard over there trying to do some stuff. I have been in there and there are folks in there working, and Dr. Gilkey has got some things that he wants to do over there as far as restaurants and things like that, and Dr. Williams has agreed that he will take care and maintain his side of that area. He doesn't have a problem with it at all. So he is all in favor of this. So please, push this forward so this guy can move on and we all can move on and allow that whole area, that 21st Street area to continue to grow and get better. Thank you."

MICHAELIS "I want to make one comment to clear up something that you said. It has to do with the cost. I was probably the one that instigated that last time, but it was an outflow of Rev. Gilkey's testimony of the people in the center that did not have any money. The impression I got from his presentation was that there was no money to do it. That is where the whole thing came from. You are right, it is not up to us to determine whether that is there, but when it was brought up by him, then to me, it became an issue. I would rather see something left in its present state than get into it and not be able to finish it."

STITH "Absolutely. I read that, and I agree with you wholeheartedly. Dr. Williams has agreed to take care of whatever he needs to do as far as maintaining that. The issue, as far as financing the removal or whatever they plan to do, as far as taking that down, that is in the works, as Donna stated, and all parties have agreed to sit in on that. We will come to some agreement and get it all done. It is going to be really nice. I looked at the corner of 29th and Oliver and I saw the trees and all of that stuff, and I am sure you had 29th and Oliver where you had something to do with that WSU thing. I think that area could be just as nice if that is allowed to happen. I am pretty sure that anybody who owns something that he is definitely taking pride in his operation over there. I think that he will make sure that that stuff is well taken care of. Dr. Williams will do the same."

MICHAELIS "Thank you, sir. Is there anyone in the audience wishing to speak in favor of this application? Please come forward."

BARBARA JOHNS "I live at 5101 Looman. It is within the proximity of 21st and Oliver, so this area continues to interest me. I spoke with a number of the people in our neighborhood association because this being spring break week, a lot of us would rather be out going somewhere doing something else. But at any rate, in talking to 3 or 4

key people within the neighborhood association, just to get a feel for their thoughts on this issue, we have no opposition, to my knowledge, to the screening coming down. Our thought is whatever we can do again to retain and support retail shopping in that area is what we want to do. If the retailers feel that by eliminating the fencing so that they are more visible to the public and possibly can attract more utilization of their stores by doing so, we are in favor of doing that.

So I don't know, too, how many of you have seen that area, but just in comment to what has been said today, there are quite a few trees and shrubs already in that area that were put in by the Dillon's store when we were trying to retain them as a property owner. They complied with city planning by planting those trees and shrubs and my concern would be, again, that they get watered and maintained. But so far, they are thriving well and perhaps there could be a little bit of additional trees planted a little bit toward the north end of that property on Oliver. As far as I am concerned, I think our main concern was just with getting the fence down so that the shops could be visible. Other than that, I think it is a beautifully attractive area just as it is. I just wanted to speak on my own behalf and that of 4 or 5 others of the neighborhood association to which I had talked with. Thanks."

BARFIELD "Ms. Johns, did you have an occasion to speak with anybody from the Crestview Lakes area?"

JOHNS "No. I have not spoken with anyone from that area."

BARFIELD "That is where the opposition came from, not from your neighborhood association."

JOHNS "Right."

MICHAELIS "Is there anyone else wishing to speak in favor of this application? Anyone wishing to speak in opposition? Mr. Gilkey, you have a couple of minutes if you want to respond to anything."

GILKEY "Again, I don't want to be redundant. I hope you will approve it. Those persons who were here the last time in opposition were in the meeting with us last Monday at the University Plaza, and they agreed that this project should go forward. However, if you say to leave the fence there, a large section of the cement wall fell down the other day and the rest of it is going to fall down. Those kids climb those fences. If by chance, one of those children are there when that cement wall falls and they are injured, they are going to sue the City. You are going to have to do something. If you decide to leave it there, you are going to have to tear it down and put it back all over again. It is dangerous. If you drive by and stop and look at it. Mr. Barfield said he had been there several times. You could get out and look at it.

It is a cement fence that has been there for a long time. You can shake it. Those posts that hold those cement slats in there are ready to fall. Children are always climbing those fences, and they are large slats about 10 feet wide. The whole fence is falling down. The portion next to it is ready to fall. You can leave it up, but I promise you that if something happens and a child is there, and those tons of cement fall on that child, the city is going to be responsible."

MICHAELIS "Thank you, Mr. Gilkey. Okay, we will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is an unusually diverse mix of residential, commercial, institutional and park uses. Continued commercial use is in character with the commercial uses to the east and south. The property has been zoned "LC" with the "SF-6" (formerly labeled "AA") buffer since 1965. The suitability of the subject property for the uses to which it has been restricted: Continued commercial use is in conformance with the existing "LC" zoning for most of Parcels 8 and 9. The use of the "SF-6" strip for parking has been approved by as a use exception (BZA 2-70 for non-required parking; amended to be for required parking by BZA12-80). Extent to which removal of the restrictions will detrimentally affect nearby property: The removal of the screening wall and any reduction in the height of the berm will make the property more visible from the residential uses across Oliver from the shopping center. However, the use of the 200-foot buffer strip along Oliver as a 35-foot wide landscaped street yard and parking provides a larger degree of buffering for the residents across Oliver, a major arterial street, than in most similar situations. Length of time the property has remained vacant as zoned: The property was vacant for several years, but has recently been occupied by new commercial businesses. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed

change is in conformance with the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan and would encourage realization of the goals and strategies of the Northeast plan to reestablish general retail uses in the neighborhood along the 21st Street corridor. Impact of the proposed development on community facilities: None.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. The four-foot screening wall shall no longer be required as a part of the C.U.P.
2. A revised Landscape Plan, prepared by a licensed Landscape Architect, shall be submitted for approval to the Planning Director. This Landscape Plan shall maintain a 35-foot planting strip along the west property line of Parcels 8 and 9 and along the south property line of Parcel 9 for 275 feet. This planting strip shall include trees and shrubs per the Landscape Ordinance.
3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
4. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
5. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

HENTZEN moved, **GAROFALO** seconded the motion, and it carried unanimously (13-0).

13. Approval of the MAPC annual report

MICHAELIS "We just need to approve this. The last time we had it, Dale was asked to go back and make some corrections on the table and I believe he did that. So we just need to approve this."

MOTION: That the Annual Report for the Metropolitan Area Planning Commission be approved.

GAROFALO moved, **WARNER** seconded the motion, and it carried unanimously (13-0).

14. Other Matters

MICHAELIS "I would like to welcome Dorman Blake, our new member. You got thrown into the fire real quick here."

KROUT "On March 29, which is the Subdivision day, we have asked the consultant on access management to meet with the Planning Commission. I think Richard is on that city-appointed committee. We will have a two-hour workshop before the Subdivision meeting. It is a lunch workshop and we will provide sandwiches. If anybody knows that they are not coming, tell us. Otherwise, we will be expecting the Planning Commission to be in attendance and we will have sandwiches for everybody.

I think it is an important meeting. It is something we discuss every day when we talk about plats, and I think you need to hear this.

We also want to introduce you to James Johnson who is sitting out there with Jamsheed, wondering whether or not he made the right decision by coming up to Kansas from Florida. James is our new Senior Transportation Planner. We put him right to work on that Rock Road request. Florida takes transportation planning very seriously, and I think he is a good addition to the staff."

MCKAY "Donna, can the Advance Plans Committee meet next Tuesday morning at 7:30?"

KROUT "Let me tell you, we don't have the minutes yet, but I think it is a good idea to have a meeting. The reason is that I got a message from Rich Euson saying that the portion of the amendments dealing with the County's sexually oriented businesses is something that they really want to get done. So I think we need to have a meeting to begin to talk about it even though we don't have the minutes for you."

GOLTRY "We do have the minutes. I haven't had a chance to finish proofing them. I have them partially proofed. Do you all have E-mail so I can E-mail them to you? Well, I need either your fax numbers or your E-mails. That way, I can get something out to you and it wouldn't mean trying to meet the mail deadline that we might otherwise miss. We will have the meeting Tuesday morning."

KROUT "If we can, we will get the minutes to you in advance, if not, we will have them there."

The Metropolitan Area Planning Commission informally adjourned at 6:15 p.m.

State of Kansas)
Sedgwick County)^{ss}

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2001.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)